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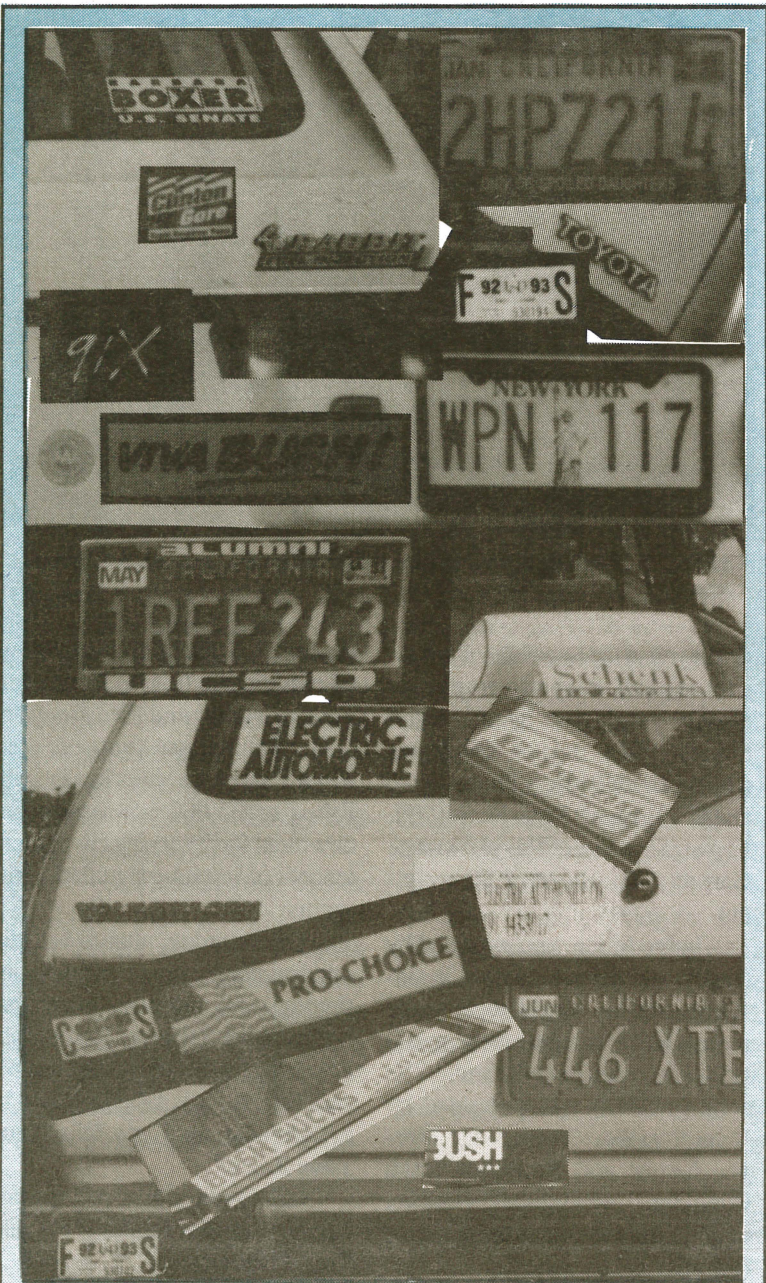
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MOTIONS

VOL. VI, NO. 2



POLITICS: Clinton Campaign subversively occupies five valuable parking spots.

CAMPAIGN PERSPECTIVE

ELECTION DAY PRIMER

In a year when the candidates agreed that issues were all-important, it was still politics as usual.

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Informal meeting held to discuss future of student run *Journal*.

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Czar's Corner

Jr. Czar tells what's hot and what's NOT in co-rec softball.

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USD Trial Team Nation's Best

The USD Mock Trial Team came away the big winner at the Fourth Annual Tournament of Champions for trial teams. The tournament took place October 14-17 at South Texas Law School in Houston, Texas. Coach Richard "Corky" Wharton and team members Chris Harrington, Dyke Huish, Lisa Werries, and Julie Westwater represented USD.

The Tournament of Champi-

ons invites teams with the best records over the last three years in the two major national events: the National Trial Competition and the Association of Trial Lawyers of America (ATLA) Competition. In Houston, sixteen teams competed for the national title. USD represented the Ninth Circuit. California Western School of Law participated as a wild card team and emerged as one of the four semi-

nalists.

Mock trial competitions parallel the trial courtroom experience and utilize witness examinations and opening and closing arguments. Alternatively, moot court competitions parallel advocacy at the appellate level and require oral argument before panels of judges. USD has had a mock trial team for only three years. Moot court teams are

See **Winners** page 4



HARDWARE: Number one collegiate trial team displays spoils of victory. They are, left to right, Lisa Werries, Coach "Corky" Wharton, Chris Harrington, Julie Westwater, and Dyke Huish.

Anita Hill Speaks at Benefit Luncheon

Powerful Women of the Judiciary Respond

By Elizabeth Genel
Motions Articles Editor

On Friday, October 9, I had the opportunity to hear Anita Hill speak at a benefit luncheon sponsored by the Women Judges' Fund for Justice in conjunction with the National Association of Women Judges. I was very excited to hear Anita Hill speak. After all, this is the "Year of the Woman," and

some would argue that it all started with Anita Hill.

Last October Anita Hill appeared before the Senate Judiciary Committee to shock the nation with her story of being sexually harassed by Clarence Thomas, a man who would become a Supreme Court Justice. Whatever one thinks of Professor Hill's allegations, whether you believe they are true or not, does not matter. Anita Hill did not prevent Clarence Thomas from being nominated, but she did manage to wake up a slumbering nation. Sexual Harassment has become an

Issue. Women are talking about it, and more importantly, men are talking about it. Anita Hill has claimed her place in history.

The luncheon was held at the San Diego Convention Center. Over 1100 people attended. There was a spattering of men, but the audience was mostly women judges and lawyers. Lunch was salad, (wilted) and chicken (not bad) with an unidentified, but I think some sort of lemon tart dessert.

There were opening remarks

See **Hill** page 11

Law Alumni Weekend Great Success

By Kate Callen

It started out as a wry item in a local newspaper gossip column. Many USD Law graduates in the San Diego area first learned of the 1992 Law Alumni Weekend when Tom Blair of the *San Diego Union-Tribune* started his March 26 column on this note: "Am I the only one who finds Sea World's newest attraction - the shark pet-

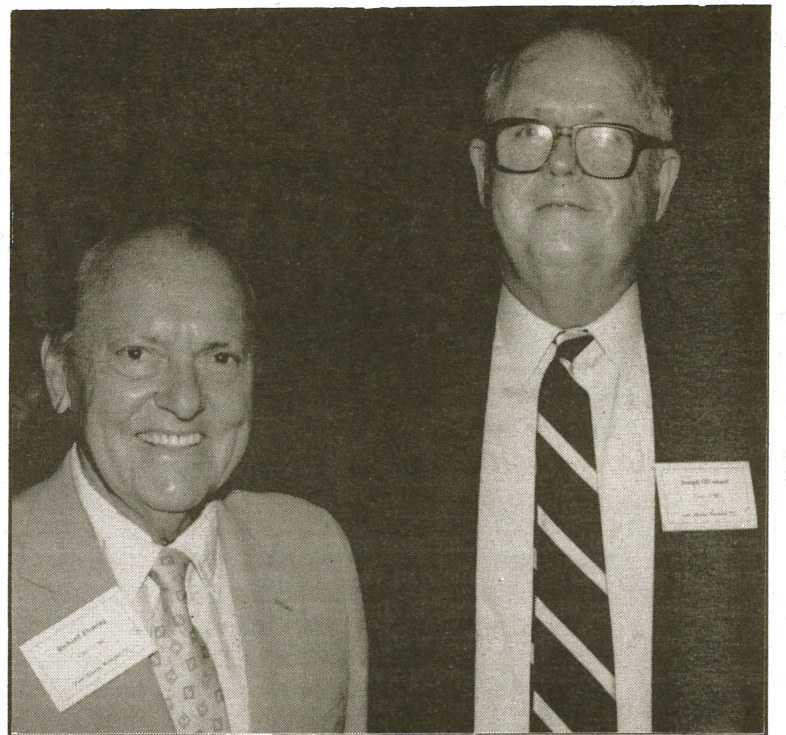
ting pool - a bit off-putting? Takes a special breed of person, I've been thinking, to want to bet close enough to a shark to pet one.... Comes word from USD that the first private party in Sea World's new shark exhibit is a reunion of attorneys who graduated from USD Law School. Professional courtesy, no doubt."

Lawyer jokes aside, the Friday night swimming-with-the-sharks Sea World party was a most extraordinary event. Two hundred alumni attended. The event was

underwritten by Luce, Forward, Hamilton & Scripps and the San Diego Gas & Electric Company. Sea World closed to all but the USD party, who were entertained by the music of Bermuda Triangle. The event was open to all USD Law Classes.

Each year a Distinguished Alumni Award is given for service to the profession and career achievements. This year's recipient is The Honorable David B. Moon, Jr. ('67) of the Vista Superior Court.

Past recipients's photographs are



OLDEST ALUMNUS: Richard Fleming ('62), age 81, visits with classmate Joseph O'Connor ('62).

Legal Traditions

The Hunt for Red Mass

By Stacie L. Brandt

Motions Editor in Chief

The voice on the other end of the phone asked, "Do you know what a Red Mass is?" It was my father in Steubenville, Ohio. His tone suggested that he knew, I should know, and it had something to do with lawyers.

A NEXIS search of "red w/2 mass" produces a variety of topics: newspapers extol "masses of red floral borders" in the spring and summer; "red troops massed" in China and the former Soviet republics; the virtues of the "Boston, Mass. - The Red Sox" are played out in season; and finally the expected Red Mass articles that appear mostly in the fall.

The Red Mass originated in medieval Europe and England as civil courts were beginning to be distinguished from church courts. It is held to invoke God's blessing on the legal system at the beginning of the judicial year. The name "Red Mass" derives from the red vestments traditionally worn by the celebrants and the scarlet robes of the medieval attending justices.

In Rome, a Red Mass was held at the opening of the Sacred Roma Rota, one of the principal church courts. Louis IX, later St. Louis, dedicated La Sainte Chappelle in Paris in 1248 to the exclusive use of the annual Red Mass. Westminster Cathedral was the site chosen in 14th century England.

The first Red Mass in the United States was celebrated in New York in 1928. The first Boston Red Mass, in 1941, was sponsored by Boston College Law School.

Today, Red Masses take

place around the United States and Canada. Each year the most famous Red Mass is for the benefit of the United States Supreme Court at St. Matthew's Cathedral in Washington, D.C. Attending this year's 40th Washington Red Mass on Oct. 4 were President and Mrs. Bush; Chief Justice William H. Rehnquist; Justices Antonin Scalia, Anthony M. Kennedy and Clarence Thomas; former Chief Justice Warren Burger; Attorney General William Barr; and several federal judges. The Bushes are Episcopalian, and Chief Justice Rehnquist is a Lutheran.

Politics, religion, and the Red Mass have a relationship. Los Angeles Cardinal Roger Mahony used the Red Mass at the 1990 ABA convention in Los Angeles to urge lawyers to vote against abortion rights. In 1991, the anti-abortion and anti-divorce themes of Detroit Archbishop Adam J. Maida's Washington sermon were detailed in the Washington Post and reported around the nation.

In San Diego, the Red Mass has been sponsored for a number of years by the city's Thomas More Society. The Society exists to maintain the ideals of the famous English lawyer, who was put to death by King Henry VIII. A Catholic humanist, he chose his religious beliefs over the orders of the king.

This year there was no Red Mass in San Diego. Sister Carlotta DiLorenzo of the USD Campus Ministries said that in past years USD has hosted an annual Red Mass for the San Diego legal community. However, this year she heard nothing from the San Diego Thomas More Society and assumed it would not be held.

A member of the USD student chapter of the Thomas More Society who was contacted was unfamiliar with Red Mass and was unaware of any student contact with

the San Diego chapter.

Some Red Masses are sponsored by law schools. Seton Hall University Law School hosted its eighth annual Red Mass on Sept. 20 in Newark, NJ. Last year the Los Angeles Mass was May 1 and sponsored in part by Loyola Law School.

Red Mass celebrations frequently include a meal after the service. A look at Red Masses around the country reveals a number of famous speakers. Robert Bork spoke at the Corpus Christi, Texas, Red Mass on Sept. 19. Calgary, Canada, marked the occasion with a Sept. 11 dinner; the speaker was Sir Geoffrey Lane, former Lord Chief Justice of England and one of England's most controversial judges.

Red Mass is often a nonsectarian occasion that offers lawmakers, judges, and attorneys a solemn moment for reflection. In New York's St. Patrick's Cathedral in 1988, the annual Red Mass was the occasion for John Cardinal O'Connor to commemorate the 50th anniversary of Kristallnacht, when the Nazis began their campaign of terror against Jews.

The Red Mass tradition in the United States began to die out in the 1960s. Robert L. Quinn is an octogenarian attorney in Steubenville. An Episcopalian, he recalls that in the 1940s and 1950s all the attorneys in the town of 25,000 gathered for the morning Red Mass, whether they were Catholic or not. They then met at the Fort Steuben Hotel ballroom for lunch and a chance to see who had died and who was new in town. No one remembers why the tradition faded.

Red Mass may be making a comeback. The amount of press coverage in NEXIS has steadily increased since 1987.

displayed in the Law School's main entrance hall. Several were present at this year's luncheon: Lynn Schenk ('70), Justice Gil Nares ('67), Justice Patricia Benke ('67), and USD Provost Sister Furay ('72). Former Secretary of Navy Lawrence Garrett ('72) was the 1991 recipient.

Judge Moon, accompanied by family and friends, knew in advance that he would receive the award. However, the luncheon still held a few surprises for him. The commendation was presented by Vista Superior Court Judge Morgan Lester and Professor Hugh Friedman. Professor Friedman taught Judge Moon torts during his first year of law school.

"Both Hugh Friedman and Morgan Lester had ample opportunity to roast me at the luncheon," Judge Moon said later with a smile. "But they passed up that opportunity, and I must say, I was pleasantly surprised."

Judge Moon also said he was delighted to see members of his five-time champion Attorney's League soccer team at the luncheon. The Judge, who plays fullback, declined to divulge the name of the team because "it's based on an acronym that's not very nice."

The Fifteenth Annual Michael Mohr Memorial Golf Tournament was held Friday to pay tribute to this popular law student who tragically died in a plane crash before

graduation. The tournament drew 69 participants from as far away as Pennsylvania and Washington, D.C. Tournament proceeds contributed over the years have established a \$35,000 scholarship endowment for deserving law student leaders of intramural athletic programs.

On Saturday, alumni had the opportunity to sign up for two continuing legal education programs, "Alternative Dispute Resolution: Preparing for the Inevitable" (ADR) and "The Ethics of Competition in a Tight Market: Does This Game Have Rules?"

California Court of Appeals Justice Patricia Benke ('74) and Tom Polakiewicz ('77) served on the ADR panel. The Ethics panel consisted of USD Professors Don Weckstein and Bob Fellmeth, Visiting Professor Alan Bersin, Craig Higgs ('69), and Judge Melinda Lasater.

For many alumni, the emotional high point of the weekend were the Reunion Class dinners for the Classes of '72, '77, '82, '87, and the combined Classes of '62 and '67. Dean Strachan visited each dinner to greet the alumni and express thanks on behalf of the Law School for a reunion gift of \$65,000 in pledges for student scholarships.

In all, over 350 alumni and guests attended the reunion dinners on Saturday night, up 100 from 1991.

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Career Corner

Judicial Clerkships

By Elizabeth Genel

Motions Articles Editor

It's nice to know I am becoming the resident expert on career opportunities. Lucky for all of you I am more than happy to share all that I learn. First, I need to clarify the difference between a judicial clerkship and internship. A clerkship is a paid position you apply for now, for after graduation. It is a post-graduation position. An internship is a program in which you work for a judge and get credit at school. A subtle distinction, I know, but it's important to keep the two straight.

Today's topic of discussion will be clerkships after graduation. I attended a judicial clerkship information meeting sponsored by the Career Center. There were two men and two women, each of whom had worked for a judge after graduation. They all agreed on one thing: a judicial clerkship is the best experience you will ever have in your legal career. So listen up.

Let's review the basic court system to help you out. There are state courts and federal courts. The feeling I got was the federal clerkships are a little more prestigious and more competitive in terms of academics. Federal judges prefer high grades and class standing. *Law Review* wouldn't hurt. Also, if the judge plays golf with your father or something, that might be helpful, too. State courts like geographic ties to the area, like your mother is Chairman of the Board of Recreation or something. Gee, what a shame there's no court in

Woodbridge, Connecticut.

There is also a huge difference between appellate courts and trial courts. Appellate work is more ivory tower. You have more time to think about legal issues. Basically it's a lot like the research you've been doing in law school, minus the oral argument. If you like research, and drafting bench memos, and opinions for the judge, an appellate court may be the one for you.

Trial courts are very different, so of course the work you'll be doing is very different. It's faster paced than appellate. You are in court every day dealing with lawyers. (Think about it, it could be scary.) It is more nuts and bolts of the law -- hands on. Or you may be doing discovery work, pretrial stuff. Bench memos, local rules, that kind of thing. It all sounded very exciting to me.

No matter what area of law you are interested in, working for a judge is an honor and an extraordinary experience. Getting to know a judge personally is very heady stuff. Having worked for a judge, you will certainly have an insight into the workings of the court system that will be invaluable. The nice thing is you will have the opportunity to do everything, but you aren't responsible for anything. You don't have to win a case; you get to help decide it.

So if you think this is something you may be interested in, start thinking about who you will ask to write your letters of recommendation. Along with your resume and grades, the letters of recommendation are crucial. If you think about it, they are what sets you apart from everybody else. Anybody can get

good grades, but it's a special person who can get a glowing recommendation that sets them apart from everybody else. They are very, very important.

Like everything else in law school, there are deadlines involved. If you are interested in a judicial clerkship, you need to take the initiative. The NALP Judicial Clerkship Directory has specific information on different clerkships, and the Career Center has blue books listing judges all over the country. You need to do some careful research, get your resume in order, and start drafting your letters of recommendation. (Most people you ask will be happy to write one, but you usually have to provide a draft. I know, it makes no sense.) Make some phone calls. The clerks in the judges' chambers will tell you about deadlines and such. But think about doing this over Christmas break and sending everything out by January 15. Don't forget, your cover letters to the judges have to be personalized. Send your stuff, and follow up with a phone call or two. Maybe you are going to be in the area and you'd like to drop by to say hello. Some judges will be happy to meet and talk with you. Always follow up with a nice phone call or a thank you note.

If you aren't sure you want to make this commitment now, why don't you think about doing an internship while still in school? Positions at the different courts are available during the school year and the summer, and you can work and get school credit. In the next issue of *Motions* I'll fill you in on the internship while still in school program.

R. Emmett Tyrrell: 'Politics Has Become Boring'

By Justin I. Miller

Motions Articles Editor

On Wednesday, October 7, the Federalist Society sponsored a lecture by R. Emmett Tyrrell. Tyrrell, a political satirist, is the author of *The Liberal Crack-up* and *The Conservative Crack-Up*, two books which criticize the major political parties for being hostages of the political extremes.

The problem with liberalism, states Tyrrell, "is, by the 1970's, it suffered from an overabundance of imagination, a political libido which was unstoppable." After politicizing "everything," lib-

erals developed the unique ability to "turn even good ideas into bad ideas."

One of the many poignant examples which Tyrrell mentioned was the liberal's ability to turn the good idea of a color blind society on its head by creating affirmative action.

"Liberals displayed a talent for developing good ideas, and then radicalizing them so that they became bad ideas. [The situation] became so bad that many liberals started to see a lack of cohesiveness, and their coalition started to fall apart. Trying to keep labor unions and environmentalists in

the same party, as well as other natural enemies, proved the downfall of the party."



But Tyrrell doesn't save all of his criticism for the liberals. "The conservative movement suffers from interminable political impotence, created by boring policies."

"Conservatism," declares Tyrrell, "suffered from a political implosion. The main issues to conservatives have always been privacy, home and tradition. But how

Anybody married to Barbara Bush has to be conservative.

can you get a nation to feel connected to those issues when to do so means giving up the privacy of the politicians?"

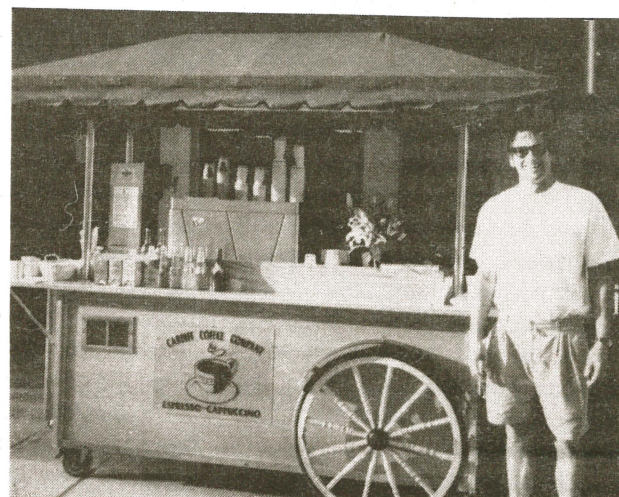
"Toward the end of my research I realized this: conservatives are truly boring. George Bush, for example, is conservative. Anybody married to Barbara Bush has

Don't Panick, Pannikin's Here!

By Courtland Creekmore

Meet Doug and Heather Pollock. They're the proprietors of the Cardiff Coffee Company, the very upscale mobile life support system that sits just behind the law school. Heather is a third-year law student at California Western School of Law. She and Doug have established the place to get a java fix. They get quality coffees from Pannikin in Encinitas and turn out a well-rounded selection of espresso,

twelve or sixteen ounce cup of the specialty coffee of the week, and pay only seventy-five cents, or one dollar respectively. The coffee is selected, I'm told, by Heather, in what has to be an enviable taste test at Pannikin's each week. Not only is the price reasonable, but when you remember that only a few weeks ago you stumbled across two lanes of traffic and a median (I walk to school to avoid parking hassles) only to discover that forty cents bought you Cafe a la Vinaigrette dans la Plastique de la Petrochemique, Cardiff's specialty COW in a cool paper cup is truly a blessing. Of course if paper cups upset your tree fetish, you can always



COFFEE CART: Not hiring.

regular coffee, decaf (believe it), latte, cappuccino, and mocha. They also sell tea and delicious pastries, and water in stylish bottles and flavors.

A specialty, one that Doug says is quite popular, and one I like to affectionately call the "Ben Nutley," is the TURBO. Described on the Cardiff menu as "...the one to jolt you awake," the TURBO is a double shot of espresso topped off with a coffee of the week -- in the same large cup!! Not even a two hour lecture on the riparian water rights could douse your flame with a TURBO in your tank.

An especially good deal is the coffee of the week. You get a

bring a cup from home.

Doug swore under oath that Cardiff uses filtered water and high quality beans for every coffee product. Business kicks in at 7:30 Monday through Friday mornings, and things usually wrap up around 7pm. Cardiff is looking for someone to work part-time, starting immediately. I would imagine there's at least one caffeine junkie who'd do it just for free fixes. Stop by. Have a COW. Have a TURBO. You owe it to yourself, before you settle down to read *Old, Dry and Crusty v. Verbose, Long and Winded*, to slam a "Ben Nutley." Doug and Heather guarantee your alertness.

to be conservative. But he doesn't have any ability to really turn people on. His issues just are not those that are important to the voters."

With respect to the current Presidential campaign, "This race is so bad, it's not a question of who's going to win this race, the question is who's going to lose it."

"Clinton's problem is the same as all Democrats': they can't govern because they can't say no. There are no priorities. Everything is just as important as everything else. And Bush's problems, in addition to making people fall asleep, are too numerous to mention."

But the major parties, and their candidates, don't get all of Tyrrell's

attention. With respect to Perot he claims, "The only man who is opposed to sound bites is capable of speaking in nothing but sound bites. He isn't capable of stringing together more than three words."

"The only people who could be impressed by Perot are editors. But he is likely to hurt Clinton in the long run." Apparently, editors are more likely to be Clinton supporters than Bush supporters.

Ending his speech positively, our political satirist notes, "I think we are faced with a political future that will be very difficult. It will be uncharted water." It will be uncharted until we get a new book from this author, no doubt.

Winners from page 1
an older tradition at law schools.

The competition trial problem involved a fictitious copyright infringement. Plaintiff Betsy Sue Hayseed, a young country western singer, claimed she wrote a song entitled "The Old Country Lawyer" in September, 1989. A year later, legendary singer-songwriter defendant Frank "Bubba Joe" Hasbin came into the Krazy Koyote Saloon where Betsy Sue allegedly played her song. Betsy Sue claimed Bubba Joe took her back to his hotel, where she played her lawyer song for him and both sheets and sheet music came into play. She claimed he stole her virtue and her song.

Bubba Joe, having undergone a reli-

The four members exhibited a rare combination of pure talent, the ability to analyze closely a complex problem, courtroom skills, knowledge and use of the Federal Rules of Evidence, and, most importantly, a willingness to work hundreds of hours to reach their individual peak performances.

gious conversion, denied both accusations. His story was corroborated by his personal assistant and bodyguard, Dolly Martin. Soon after the Krazy Koyote incident, he wrote "By the Old Courthouse Door" about an old country lawyer. Expert witness-record producer Edward Di Santini, Jr., testified for Betsy Sue that the two songs were "substantially similar." Each team prepared both sides of the case, including their own witnesses for each side's case-in-chief.

The USD team began to prepare for trial right after Labor Day. Professor Wharton adopted an innovative and aggressive plan of attack. While competing trial teams typically utilize two team members as attorneys and two as witnesses, he had observed the

negative effect of fatigue on the USD team's attorneys last year. His new strategy was to have each member be both an attorney and a witness: Dyke and Lisa represented the plaintiff and played defense witnesses; Chris and Julie represented the defendant and played plaintiff's witnesses. Clearly, his plan worked.

The key strategy was expressed by Lisa: "Corky has a phrase, 'you know the problem; you are the problem; you become the problem.' There's nothing they're going to say that will surprise us, because we've torn the problem apart piece by piece and built it up again." As a group, the team worked up both sides of the case for nearly three weeks before picking sides. This enabled the five team members to share different perceptions and ideas before they developed the affinity that comes with being assigned to one side.

Lisa explained the preparation: "A lot of people think that trial team is a very scripted, theatrical thing, but it's not, particularly in cases where you don't always have your own witnesses."

Then the team, with the help of assistant coaches Steve Hakes and Chris Hulburt, former USD trial team members and now trial attorneys, developed and refined case theories, direct examinations, cross-examinations, closing arguments, opening statements, evidentiary objections, motions in limine, bases for impeachment, and introduction and use of exhibits. Together they practiced for hours, for days, and for weeks.

When they left for Houston on October 14, they hadn't yet reached the mental state that good athletes know means winning. As Chris expressed it, "On the plane going to Houston, Lisa and I couldn't even do a decent direct of each other. We were ten minutes over; we had to keep looking at our notes. The plane landed, and something just clicked. When the game starts, it starts."

In the first round USD defended against Temple University School of Law from Philadelphia. They then alternated sides in the preliminary rounds as they progressed in the competition, besting Chicago-Kent College of Law, Hofstra University School of Law, and Case Western Reserve University Law School. At a bar much like Betsy Sue's Krazy

Koyote Saloon, the four semifinalists were announced: Texas Tech University School of Law, Georgia State University College of Law, California Western, and USD, respectively, were ranked first through fourth.

The next morning, the USD team represented plaintiff against first-seeded Texas Tech, who won the first two national championships. Next, presenting the defendant's side, USD took on Georgia State in the finals and won the Tournament of Champions.

According to Professor Wharton, the four team members exhibited a rare combination of pure talent, the ability to analyze closely a complex problem, courtroom skills, knowledge and use of the Federal Rules of Evidence, and, most importantly, a willingness to work hundreds of hours to reach their own individual peak performances. They respected each other, they helped each other, and they all reached their optimum performance levels at the same time. He also said that after seeing each side do its first round, he knew that they would win.

Westwater tenaciously crossed

Some individual performances stand out in Coach Wharton's mind. Julie Westwater and Chris Harrington represented the defense side. Julie, who was chosen the best overall advocate in the final round, was a tenacious cross-examiner and presented virtually flawless closing arguments. One local Texas lawyer was heard to respond, "That one's a little bulldog. She just doesn't let go."

Harrington's delivery smooth

Chris Harrington delivered clear and compelling opening statements and was highly effective on cross-examination as well. As expert witness, Eddie Di Santini, for the plaintiff's side, Chris presented difficult and highly technical testimony smoothly and clearly.

Werries throws off opponents

Professor Wharton described Lisa Werries and Dyke Huish, who argued as attorneys for plaintiff: "Lisa presented such clear and compelling opening statements that the judges were easily swayed by her for

the rest of each round. In short, her objections tied the other teams up in knots. In one round, her objections caused one third of the opponent's case to be thrown out.

Huish's closing moves judges to tears

"Dyke Huish presented the best closing argument it has ever been my pleasure to see. At one point, the judges were so attentive that they were leaning over so far on the railing as to appear to be close to falling over. At the end of the closing argument, he had literally moved them to tears. In addition, in portraying Bubba Joe Hasbin, he also had the judges close to tears, this time from laughter."

Chris also described Lisa: "Probably the funniest thing would be Lisa's personality at trial. It's funny, but that word mischaracterizes it. She defines politeness in court. Dyke teases her that she'll want to move her cup of water from one part of the table; she'll stand up to do her direct, say 'excuse me, with the court's indulgence,' and move her cup. The court ate it up."

The team members are overwhelmed by this victory. Dyke compared it to winning the Final Four of collegiate basketball. Chris commented, "I don't think any of us feel like we're the four best student litigators in the country. It just shocks me when I say it. I would rather win this championship than Am Jur every class I've taken."

Lisa expressed it this way: "I see trial

One local Texas lawyer was heard to respond, "That one's a little bulldog. She just doesn't let go."

team as the single most valuable experience I've had in all of law school and all my educational experience. It wouldn't be that way if it weren't for the coach. I get to graduate in six or seven weeks having won a national competition with a team. This really wraps up law school better than anything else I could imagine."

The other teams that do well in trial competition typically pour great financial resources into their programs. South Texas has constructed courtrooms to be used as practice classrooms. The competition was held at the Texas Appellate courtrooms, to which the South Texas team has regular access.

Coach Wharton is viewed by the team as a primary reason for the big win. Lisa explained, "It's nice to get a non-South team from the west coast that doesn't pour that kind of resources into it. It's a real tribute to the coach, Corky, and to the fact that hey, we can do it."

Winning the Tournament of Champions is significant to USD Law School for several reasons. First, participation in the competition is based on each team's three year record. Only the best and most consistently successful schools even make it to the Tournament of Champions.

Second, as national champion, USD can draw students based on the reputation of its mock trial team. The law school has the opportunity to build on this win and on this team. With administrative, student, and community support, this team can continue to achieve success.

The big win does not end the USD Trial Team's activities. The dust has not even settled on the loving cup, but Professor Wharton is already helping team members Mike Gillaspie, Marc Gamberdella, and Shirvan Sherma prepare for the San Diego Defense Lawyers Intracity Competition against California Western School of Law.

This article is a joint effort of the USD trial team members and the Motions editorial staff.

USD Law Professor on '60 Minutes'

By Christine Harbs

On June 14, USD law professor and Center for Public Interest Law (CPIL) Director Robert C. Fellmeth was featured in a "60 Minutes" segment which critiqued the physician discipline system of the Medical Board of California.

The Medical Board, responsible for licensing medical doctors in California, is also charged with investigating consumer complaints against physicians and initiating the adjudicatory process to revoke or suspend licenses when appropriate. For 12 years, CPIL has monitored the activities of the Medical Board in its quarterly *California Regulatory Law Reporter*. In 1989, CPIL issued *Physician Discipline in California: A Code Blue Emergency* -- a 100-page report chronicling the failures of the Medical Board's enforcement system.

Using the *Code Blue* report as the

basis for the segment, "60 Minutes" Mike Wallace revealed that the Medical Board, which is statutorily charged with protecting consumers from incompetent or impaired physicians, refuses to disclose to an inquiring consumer that a physician has been convicted of felonies, suffered medical malpractice judgments or settlements, or had his or her admitting privileges revoked or suspended by a hospital.

In the presence of Medical Board Executive Director Ken Wagstaff, Wallace even telephoned the Board's toll-free consumer hotline to inquire about several physicians who have been convicted of multiple felonies related to the practice of medicine. Wallace was told either that the subject physician had a "clean" license or that it had taken the Medical Board at least five years from the date of the convictions to remove the license.

Although the Medical Board has complained that "60 Minutes" focused only on sensational cases and that it has improved its enforcement system since the filming of the segment, Professor Fellmeth told Mike Wallace, "If you take an extreme case and the system doesn't respond, that tells you some-

thing about the less extreme cases. The system must respond not only to the extreme cases but also to the physician who's simply incompetent, who's lost his or her skills. This physician has got to be removed from the profession, and that's not happening." Further, recent improvements to the Board's system do not require the Board to disclose important information about physician convictions, malpractice, or privilege restrictions to inquiring consumers.

Events subsequent to the airing of the June 14 segment appear to vindicate the network and CPIL. In July, the director of the Department of Consumer Affairs (the Medical Board's parent agency) ordered a formal investigation into "serious allegations of misconduct" by upper staff of the Medical Board's Enforcement Unit, including orders to throw out consumer complaints rather than investigating them, irregularities in the promotional and recruitment process, and misuse of state time and vehicles. At this writing, that investigation is ongoing, with results expected by the end of October.

FLEMING'S FUNDAMENTALS OF LAW

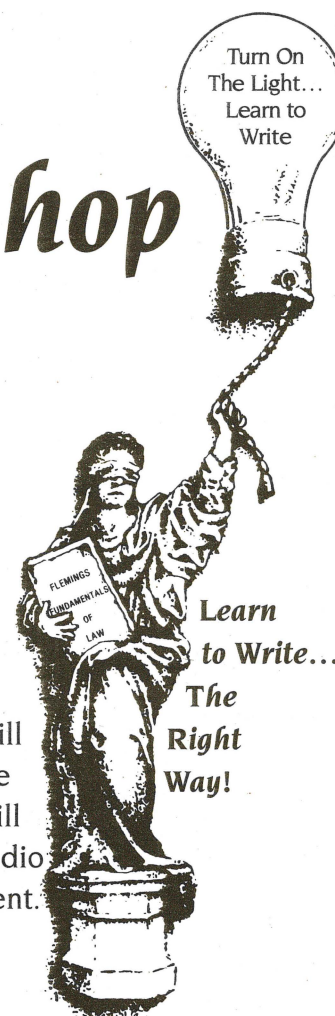
Examination Writing Workshop

Legal Examination Writing Workshop

WHAT THE WORKSHOP WILL DO FOR YOU

- ✎ Provide 12 hours of Intensive Exam Writing Techniques.
- ✎ Teach Exam Approach (including issue spotting techniques, issue headnotes, factual analysis and proper sentence structure).
- ✎ Develop Outline Organization Techniques within the purview of the Call of the Question (including identification of major/minor issues and fact to element application).
- ✎ Structure Adversary Arguments within the IRAC Format.
- ✎ Provide a Sentence by Sentence Analysis of six in-class hypotheticals.
- ✎ Explain the "Do's and Don'ts" of a successful exam answer.
- ✎ Provide an extensive 100 Page Writing Workbook. The material is not available anywhere in published form.

- ✎ Most of all, you are trained to write Superior Answers.
- ✎ In addition, each student will have the opportunity to write Two Exam Hypotheticals. One answer will be critiqued in class and one answer will be collected at the conclusion of the second class session. The answer will be critiqued extensively through audio cassette and returned to each student. One blank cassette tape must be provided by each student.



SCHEDULE OF SEMINARS...

SAN DIEGO

- Saturday, September 26, 1992 : Noon-6:00 pm
- Sunday, September 27, 1992 : Noon-6:00 pm
- All sessions will be given live at the Hanalei Hotel, 2270 Hotel Circle North, San Diego, Grand Pacific Room.

ORANGE COUNTY

- Saturday, October 3, 1992 : 9 am-12:30 pm, 1:30-4:00 pm
- Sunday, October 4, 1992 : 9 am-12:30 pm, 1:30-4:00 pm
- All sessions will be given live at Pacific Christian College, 2500 E. Nutwood at Commonwealth, Fullerton (across from California State University, Fullerton), Second Floor, Room 205.

MILPITAS/SAN JOSE

- Saturday, October 10, 1992 : Noon-6:00 pm
- Sunday, October 11, 1992 : Noon-6:00 pm
- All sessions will be held at the Crown Sterling Suites Hotel, 901 Calaveras Boulevard, Milpitas, in the Cordoba Room. VIDEO PRESENTATION.

LOS ANGELES

- Saturday, October 10, 1992 : 1:00-7:00 pm
- Sunday, October 11, 1992 : 1:00-7:00 pm
- All sessions will be given live at the Ramada Hotel, 6333 Bristol Parkway, Culver City, in the Projection Room.

RIVERSIDE

- Saturday, October 17, 1992 : Noon-6:00 pm
- Sunday, October 18, 1992 : Noon-6:00 pm
- All sessions will be held at California School of Law (formerly Citrus Belt), 3775 Elizabeth St., Riverside. Room number will be posted on the day of the seminar. VIDEO PRESENTATION ONLY.

ORANGE COUNTY

- Saturday, October 24, 1992 : Noon-6:00 pm
- Sunday, October 25, 1992 : Noon-6:00 pm
- All sessions will be given live at the Radisson Suite Hotel, 2932 E. Nutwood Ave., Fullerton. Room location will be posted in the lobby.

Pre-Registration Guarantees Space and Workbook

\$150.00 per person • \$125.00 Group Rate

(Group Rate Available to Groups of 5 Who Register Together At Least One Week Before the Desired Seminar.)

Registration at Door (if Space Available) : \$160.00

Course Available by Mail Order for \$172.40 (includes postage & handling)

FLEMING'S FUNDAMENTALS OF LAW

Long Term Bar Review

Preparation for February, 1993 California Bar Exam Begins October 3, 1992

COURSE SCHEDULE:

Weekend One:

12 Hour Writing Workshop. (Emphasis on Analysis, Organization and Writing Techniques.)

Weekend Two:

14 Hour Performance Workshop.

Weekends Three through Sixteen:

Saturday: Substantive Law, Approaches, Exam Application, Performance Review and Multistate Review.

Sunday: Exam Analysis of Six Past-Bar Examinations, In-Class Writing of Three past-Bar Hypotheticals under Simulated Bar Conditions.

Weekends Seventeen and Eighteen:

32 Hour Additional Performance Workshop (instruction provided for writing Memos, Briefs, Letters and P/A's, as well as Closing Arguments/etc., with practice files and libraries). In-Class Writing of Performance Exam under Simulated Bar Conditions.

CLASS SITE AND COST INFORMATION:

- All Live Sessions will be held at Pacific Christian College, 2500 E. Nutwood Avenue (at Commonwealth), Fullerton (across from California State University, Fullerton), Second Floor, Room 205.
- Total Price for the Long Term Review Course: \$1,495.00.
- \$150.00 non-refundable deposit will guarantee space and freeze price.
- Cassette Course is Available by Mail for the Registration Cost plus an Additional Fee of \$225.

LONG TERM SCHEDULE OF CLASS MEETINGS:

October 3/4, 10/11, 17, 18, 24, 25, 31
November 1, 7, 8, 9, 10, 14, 15, 21/22
Break (November 23 through December 18)
December 19, 20, 26, 27
January 2, 3, 9, 10, 16, 17, 23, 24, 30/31
February 6, 7, 13, 14

REGISTRATION FORM (Please Type or Print)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____

Law School: _____ Semester in Which Currently Enrolled: _____

Workshop Location/Date to be Attended: _____

Form of Payment: ☐ Check ☐ Money Order (Make Payable to: Fleming's Fundamentals of Law)

Mail this Registration Form to: **FLEMING'S FUNDAMENTALS OF LAW**
21661 Ciptana, Mission Viejo, California 92692 • 714/770-7030

FLASH!

July 1991 Bar Statistics	February 1992 Bar Statistics
California State Average:	California State Average:
54.8% Pass Rate	50.9% Pass Rate
Fleming's Bar Candidates Average:	Fleming's Bar Candidates Average:
77.5% Pass Rate	85% Pass Rate
(For those who completed all course requirements)	(For those who completed all course requirements)
55.5% Overall	65.5% Overall

SBA President's Report

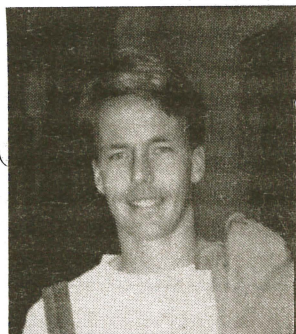
By Robert Chong

I'll begin this edition with this: Halloween is Coming, Halloween is Coming!

HALLOWEEN PARTY:

When: October 30, from 9pm to 1am
Where: Wabash Hall, 3855 Wabash Ave, La Mesa.
Transp'n: Shuttles from campus.
Who: All law students and guests are invited, and please bring your I.D. (Wear a costume in which you can carry your I.D.)

I attended the SBA Halloween Party two years ago when it was at Wabash Hall. The location was not exactly picturesque, but we rented the Hall for its trashability level. This is not to imply that we should trash the place, but wild and weird things have been known to happen on Halloween. On that note, the neighborhood is not great, nor is it advisable to drive there. Parking is a problem, and safety is also a consideration. We will be running two shuttles to and from the campus parking lot to the party. This way we can be somewhat responsible about drinking and driving, and we won't have any stolen cars that night. Also, because the Hall is dusty, dust and spilled beer can create a dirty mess for your shoes. My advice is not to wear your nice shoes that night.



PARTY CHAIR: Scott Savary is heading this year's SBA Halloween bash.

There will be a costume contest for the best and most innovative costume. Barpassers has generously donated the grand prize: a round trip for two, with accommodations, to LAS VEGAS! The only catch is the plane leaves at 10am the next morning (can we say: HANG-OVER), with the return flight Sunday at 6pm. It's a wonderful two day getaway. So, if you have a flair for creativity, or if you're just a gambaholic, the grand prize is waiting for you. (Thank You, Barpassers.) There will be other prizes as well.

Remember: (1) use the shuttle if possible; (2) don't wear nice shoes; (3) be somewhat responsible about drinking (especially if you're driving); (4) bring your I.D. (especially if you're bringing a guest); (4) be creative with the costume; (5) think Las Vegas; and (6) have a good time. SEE YOU THERE!

VOLUNTEER INCOME TAX ASSISTANCE PROGRAM: Last issue, I mentioned SBA trying to start a VITA program for the spring. Thanks to the efforts of Renae Adamson, we have more to report. Renae has been in constant contact with the Internal Revenue Service, and they seemed to be excited about getting a VITA center going here at USD. Volunteers to staff a VITA center must be trained. The IRS provides the training, but hold on to your hats: each volunteer receives 40 hours of training! I know that seems like a lot, but the training will take place over several Saturdays. It is intense and quite valuable even if you don't plan on volunteering for VITA. The training is scheduled for January. The center will be open from February until April 15. There is a signup sheet on the SBA door. If you would like to help others fill out SIMPLE tax forms, come by and sign up.

OTHER COMMITTEES FORMING:

STUDENT ADVISORY TO THE CAREER SERVICES: What do you like about Career Services? What do you think they can do differently? Are they providing adequate support? What can you do to help them be more effective? If you think you have answers, sign up for the Student Advisory to the Career Services. The first meeting will be in November.

STUDENT ADVISOR TO THE PARKING SERVICES: (Same questions, see above, but substitute Career Services with Parking Services.) We are forming a committee to examine ways to alleviate the parking headaches on campus. Does this interest you? Come by the SBA office and sign on.

That's all for now. A final reminder that our meetings are still every Wednesday at 4:30pm in Room 2A; all are welcome to attend. There's lot's going on with SBA, and there are many ways to participate; don't be left out.

USD School of Law Final Exam Schedule Fall, 1992

Wed. Dec. 9		Mon. Dec. 14		Thurs. Dec. 17	
9am	Con Law B - Siegan Con Law C - Zacharias	9am	Crim Pro I - Schwarzschild Admin. Law - Davis	9am	Tusts & Est. - Shue Trusts & Est. - Smith
1:30	Torts A1, A2 - Morris Torts B1, B2, C - Nolan/Ursin Products Liability - Ursin	1:30	App. Prac. & Pro - Niddrie Contracts A - Engfelt Contracts B - Wonnell Contracts C1, C2 - Kelly	1:30	Legal Acctg - Pilchen Income Tax. of T & E - Harris
6pm	Torts E1, E2 - Heriot Con Law E - Schwarzschild Crim Pro I - Huffman Patents - Knobbe/Bunker Civ Tax Pro - Wilson	6pm	Family Law - Shea Reg. Indus. - Fellmenth Contracts E - Wohlmuth Crim Law E - Roche Conflicts - Engfelt Int'l Tax - Pugh Trusts & Est. - Spearman	6pm	Civ Pro E - Bratton
Thurs. Dec. 10		Tues. Dec. 15		Fri. Dec. 18	
9am	Secur. Regs. - Dallas	9am	Bnkruptcy - Newborn MCL Intro. to Law - Darby	9am	Remedies - Simmons
1:30	Immigr. Law - Esparza Ins. Law - Rappaport	1:30	Evidence - Peterfreund Evidence - Cole	1:30	Crim Law A - Alexander Crim Law B - Cole Crim Law C - Montoya
6pm	Corps. - Smith Env't'l Law - Rappaport Fed. Est. Gift Tax - Hersh White Collar Crime - Halpern Corp. Reorg. - Steinhause Prof. Resp. - Hartwell	6pm	Labor Law - Sullivan Tax II - Snyder		Prof. Resp. - Zacharias
Fri. Dec. 11		Wed. Dec. 10		Note: Typing will be available Room 2A throughout entire exam period. Only typewriters with no memory capability are allowed.	
9am	Cal. Admin. Law - Fellmeth	9am	Corps. - Friedman Pub. Int'l Law - Pugh		
1:30	Civ Pro A - Brooks Civ Pro B - Strachan Civ Pro C - Heiser Fed Jurisdn - Bratton UCC - Wonnell	1:30	Property A - Sherwin Property C - Minan Tax I - Snyder Fed. Est. & Gift Tax - Smith		
		6pm	Property B, E - Rashedbush Tax'n of Prop. Trans. - Jelsma		

USD Clinical Law Programs

By Justin I. Miller

Motions Articles Editor

Among the most practical offerings at the law school are the clinical and trial skills courses. These classes, which provide "hands-on" trial advocacy, are offered through the Clinic office, room 308 Warren Hall. The classes are tailored to provide students with experience in either broad areas of law or very specific types of cases.

The Clinic is actually a year round public interest law firm, that accepts real cases. "It is necessary that we consider the overall case load so we are able to handle the cases during the summer when the majority of students aren't around," declared Clinic Professor Steve Hartwell. The Clinic does have a summer session as well to ease the seasonal burden.

As a rule, the Clinic accepts cases from individuals who meet federal guidelines to be classified

as indigent. The other factor the Clinic considers is student interest. According to Prof. Theresa J. Player, the Clinic Director, "We try to keep the students' interests in mind because we find that the cases they learn best from are those they are interested in." This means that the Clinic tries to accept cases which will have the greatest educational value to students.

The Clinic offers classes, which are graded pass/fail, in criminal, environmental, and immigration law. It also offers a more general Civil Clinic. Each class stress client contact to enhance interviewing, counseling and representation skills.

Students frequently have the option of working on the Clinic's own case load or being assigned to a governmental agency to work on cases. The Criminal Clinic, for example, places students in unpaid internships with both the Public Defender's office and the District Attorney's office.

Students placed at the various agencies perform assigned duties under the supervision of a practicing attorney. When working "in-house," students are supervised by

a Clinic professor and make court appearances.

"We want to put the students into the role of the lawyer. That is the best way to learn," explains Player.

The Clinic also offers more traditional "lab" courses: Negotiations, Interviewing and Counseling, and Advanced Trial Advocacy. These classes revolve around classroom simulation of actual situations as opposed to real client cases. The experience is still very worthwhile.

"I've gotten a great deal out of my Negotiations class. I understand far better what motivates people's actions, and how to use those motivations to the benefit of my client," stated Kurt Campbell, a current student.

The Lawyering Skills II class, which the Clinic offices have always been charged with teaching, provides the greatest number of students with exposure to the clinical programs. Lawyering Skills II is also a prerequisite for any of the client contact clinic courses, although it is no longer a graduation requirement.

Death from page 14

taking advantage of 161 because caring for them has become too burdensome. And I'm sure prosecutors will take every available opportunity to enforce this law, especially because it would make them so popular and because guilt would be so easy to prove beyond a reasonable doubt in court. And juries certainly won't be tempted to issue "jury pardons." So this provision will definitely stop people from inducing others to take the "final exit." Right.

All of this makes it easier to understand how the drafters of an initiative ostensibly aimed at eliminating "unnecessary pain and suffering" could claim, presumably with straight faces: "Nothing in this Act shall be construed to condone, authorize, or approve [of] mercy killing." There's simply no nexus between their terminology and objective reality. But they are funny.

And now on to the disturbing side of 161.

Insurers Prop. 161 makes death a convenient thing for everyone but insurance companies. Insurers are told that a patient who avails himself or herself of the Act's provisions has not, in fact, committed suicide, and that they are disallowed from canceling policies, raising rates, etc. Everyone else has it easy. The doctor is shielded from all liability for terminating even a patient who changed his or her mind unless the doctor had "actual knowledge of the revocation." The patient is offered "a painless, humane and dignified manner" by which he or she can end his or her life. Even the doctor's fees must be "fair and reasonable." So what's the problem?

Policy, folks. Think policy.

Prop. 161 is actually unnecessary. It claims that "[m]odern technology has made possible the artificial prolongation of human life beyond natural limits." But you can bet that 161's designers were aware of the fact that California law already allows people to refuse any treatment they do not desire and to execute documents which will pre-

vent them from being kept alive if they should lose consciousness. Nothing in the law forces you to accept medical care, or even food. So everyone has the ability to "end it all," at least via starvation. And heck -- if you are really intent on killing yourself, how can anyone stop you? There are so many ways, and so many opportunities

The "problem" that the drafters of 161 are trying to solve is that there are not enough old, bedridden people who avail themselves of these "opportunities." It is difficult for society (so the argument runs) to care for the aged, especially those who require expensive medical care. And yet they have the temerity to go on living, wasting precious resources and contributing nothing tangible to society. Something must be done to rectify the situation

Enter Prop. 161. 161 suggests that it is concerned with preventing "unnecessary pain and suffering, both for the patient and the family." It offers the aged a "right" to "choose to eliminate pain and suffering, and to die with dignity." Consonant

with these ends, it assures patients that the fees will be "reasonable," and that their insurance policies must be honored. It even provides a do-it-yourself "directive" form (suicide note), complete with spaces for the patient's name and signature, and the date of execution (no pun intended); the patient need only fill in the blanks.

The designers of Prop. 161 have decided that the best way to get rid of all these costly, old, sick people -- at least for the time being -- is to tell them that they live undignified lives as burdens to themselves and their families, to give them a "right" to kill themselves, and to make it as easy as possible for them to do so. Prop. 161 is an incentive for the sick and aged to commit suicide so they will stop being a financial drain on society. It represents a policy decision that the lives of the old and ill are not worth the money it costs to sustain them.

Think about it from a policy perspective. Ask Professors Ursin and Nolan. Really.

When we vote in the upcoming

election, we will have a choice to make about our society. If we have no problem with deceiving the sick and aged by telling them that they live degrading and useless lives, and that it would somehow enhance their dignity if they allowed themselves to be put to sleep like stray dogs, then we should support Prop. 161. If not -- well, then, there may be some hope for society after all.

You know - all things considered, I think 161 is more disturbing than amusing.

Correction

Motions regrets that APALSA was incorrectly described as a new student organization.

Ask the Librarian**Environmental Law:
Keeping Current**

By L. Ruth Levor

Among the many emerging legal specialties is the practice of environmental law. As knowledge of any specialty area currently in demand affords a leg up in today's highly competitive job market, knowledge of research techniques and sources in that area can also be an advantage. This article will provide a thumbnail review of the highlights of environmental law research for the novice researcher with an interest in this field.

The chief environmental services are the looseleaves from BNA and from the Environmental Law Institute (ELI) in Washington, D.C., a nonprofit policy research center. ELI's *Environmental Law Reporter* (ELR) tracks case law and legislative and regulatory developments in a variety of formats. *Update*, a biweekly single sheet newsletter, contains sections on litigation, Congress, and federal agencies which summarize environmental decisions and developments. Most items are at least two weeks old, but the scope is fairly comprehensive and has the advantage of providing a quick summary overview for the researcher who is trying to stay on top of the field.

All of the opinions reported in the *Update* are subsequently reported or abstracted in the monthly case reports. Other *Update* infor-

mation, if considered to be of lasting significance, is reported more fully in the monthly publication *News and Analysis*, which may be characterized as a combination mini-law review and abstracting service. The analysis consists of articles by practitioners, agency officials and members of the editorial staff.

The *News* includes brief summaries of cases appearing in the same month's additions to the Litigation and Pending Litigation binders; a separate section for U.S. Supreme Court activity, from docketing to final opinions; an overview of one month's Congressional activity for the period up to one month prior to the issue date; agency actions for roughly the same period; and a listing of recently published journal articles.

A useful feature is the Pending Litigation binder, which contains summaries of selected new case filings, as well as of subsequent pleadings in cases that were previously reported. It supplies names and addresses of counsel, and selected pleadings are listed as available to be ordered from ELI. A Statutes binder contains fourteen environmental enactments, the Administrative Procedure Act, and certain environmental treaties and conventions.

The *ELR* also includes an Administrative Materials binder, which contains a variety of materials. There are summaries of all RODs (records of decisions) issued under CERCLA (the Comprehensive Environmental Response, Compensation, and Liability Act)

and all ALJ (administrative law judge) decisions issued under RCRA (the Resource Conservation and Recovery Act). Copies of the full ALJ decisions may be ordered from ELI. There is also a section containing internal EPA policy documents in full text, as well as a list of additional policy documents available to be ordered in full text from ELI. A number of these documents also appear in the Federal Register. Executive Orders are also included.

Because *ELR* indexing is chronologically fragmented, to insure thoroughness a subject must be searched in the 1971-1982 section, the 1983-1989 section and the Current Subject Matter Index section. Pending Litigation materials are indexed in a separate section, and policy guidance documents and Executive Orders are each indexed separately in the Administrative Materials binder.

BNA's series, the *Environment Reporter* (ER), complements the *ELR* in such a way that, depending upon your particular research needs, it may be worthwhile to investigate both sources. The *ER* weekly newsletter, *Current Developments*, is much more comprehensive than the *ELR*'s biweekly *Update*. It covers activities in the courts - trial verdicts as well as judicial rulings and decisions, Congressional reports, state developments - legislative actions, new rules, plans, etc., EPA proposals for new standards, rules, etc., and other agency and departmental actions, as well as general environmental news items.

It also contains analytical articles by contributing editors, no-

tices of seminars, conferences and continuing education programs, a journal of bills and resolutions introduced in Congress, and the full text of selected EPA announcements from the Federal Register.

Court decisions are initially reported in full in the *ER* Decisions looseleaf binder and ultimately appear in bound volumes in the series *Environment Reporter - Cases*. The cases may date back from one month to several years prior to their appearance in the Decisions binder. They include mostly federal cases and some state cases of interest, as well as court review of administrative decisions. Indexing is in digest format, with the major classifications according to the pertinent federal laws, and there are cumulative five-year indexes for the bound case volumes.

Much of the ELI and BNA material is available on LEXIS and Westlaw. Online coverage of environmental materials is continually expanding. Both *ELR* and *ER* materials are covered in depth. Westlaw's Database List indicates that it is the only one of the two that carries *ELR*'s *Update* newsletter; both carry BNA's *Environment Daily*. Both LEXIS and Westlaw have separately searchable databases of federal environmental case law and statutes, varying coverage of state and federal administrative materials, law review and other journal articles and environmental news articles.

Westlaw provides a topical highlights database for environmental law (WTH-ENV). The Gower Federal Service, containing IBLA (Interior Board of Land Appeals) decisions, is also available on Westlaw. In addition, DIALOG on Westlaw has a number of relevant files, including ASI (American Statistics Index), GPO Monthly Catalog (GPO-CTLG), and Publications Reference (GPO-PUBS) files.

LEXIS has a number of specialized files and an impressive selection of environmental trade journals and legislative histories for SARA (the Superfund Amendments and Reauthorization Act), NEPA (the National Environmen-

tal Policy Act of 1969), CERCLA and the 1977 CAA (Clean Air Act) amendments. The legislative history databases are combined in *ENVLH*.

For the novice environmental researcher, there are a variety of helpful handbooks and guides. *Environmental Law Handbook* provides excellent coverage of thirteen separate areas of environmental regulation, as well as exceptionally fine explanations of the fundamentals of environmental law. Another choice BNA publication is *Guide to State Environmental Programs*.

The reader should always remember that government publications comprise the prime materials for environmental law research. The *Monthly Catalog*, the *Federal Register*, *CFR* and *Presidential Documents*, should always be examined for agency and executive environmental pronouncements and activities. The wealth of information in the depository collection is often overlooked, as is the abundance of Congressional materials - bills, hearings, reports, prints and other documents.

Finally, there is a plethora of newsletter services. These deal with specific areas of litigation, such as asbestos, and they report judicial developments around the nation. Many of the cases reproduced in these publications may be unreported decisions at the trial level. Examples are Andrews Publications' twice monthly *Asbestos Litigation Reporter* and *Asbestos Property Litigation Reporter* and Mealey's Publications' twice monthly *Litigation Reports: Asbestos Property Actions*. While these publications are not traditionally included in academic law collections, it is useful to be aware of their existence when establishing or joining a firm that practices heavily in the area of environmental law.

The author is Associate Director/Head of Public Services of the USD Legal Research Center.

'The People's Government, Made for the People, Made by the People, and Answerable to the People'

Daniel Webster (1782-1852)

Election Perspective: Local Candidates and Issues

US Senate

6 Year Term 2 Year Term

Barbara Boxer

John Seymour

Democrat
Age 51
Background: 5 term Dem. congresswoman; 143 overdraws while in House.
Education: Favors more spending.
Defense: Cut military budget in half over next 5 years. Opposes U.S. defense of Europe and Japan.
Environment: Wrote bill to designate California coastline as ocean sanctuary, which would act to stop oil drilling.
Trade: Opposes NAFTA.
Abortion: Believes is a right to privacy guaranteed by Constitution; "Champion of Choice" of Calif. Abortion Rights Action League.
Judiciary: Opposed Clarence Thomas.

Republican
Age 54
Background: Handpicked by Gov. Wilson in 1991 to complete his Senate term.
Defense: Favors more modest "build-down" that would maintain strong military presence.
Environment: Attacks federal Endangered Species Act as a major threat to jobs and the Calif. economy, and would add cost-benefit analysis. Opposes offshore drilling.
Trade: Supports NAFTA.
Abortion: Supports choice with parental notification.
Judiciary: Voted to confirm Clarence Thomas.

Bruce Herschensohn

Dianne Feinstein

Republican
Age 60
Background: Ex-KABC television commentator for 13 years; documentary film maker for the U.S. Information Agency. Made losing primary bid for the Senate in 1986. Lives in one-bedroom apartment in Hollywood. Did not attend college.
Defense: Opposes any cuts in military budget; U.S. cannot permit "perception of disarmament."
Environment: Recently stated that the spotted owl was worth not one Calif. job. Would repeal Endangered Species Act and leave environmental control up to the states, but advocates federal protection of the bald eagle.
Taxes: Favors 19% flat tax with postcard return and \$16,000 floor.
Abortion: calls for repeal of Roe v. Wade but does not favor constitutional anti-abortion amendment, "Enemy of Choice" of Calif. Abortion Rights Action League.
Judiciary: Supported Clarence Thomas.

Democrat
Age 58
Background: U.S. Congresswoman since 1982, former San Francisco mayor.
Defense: Cut budget by \$135 billion in next 5 years and use savings to "invest in America."
Trade: Opposes NAFTA.
Environment: economic impact should be greater factor in administering the Endangered Species Act.
Jobs: Favors new jobs created by investment in infrastructure.
Taxes: Supports tax credits for investment in new equipment, capital gains tax breaks for new and expanding businesses and permanent tax credits for investment in R&D.
Abortion: "Champion of Choice" of Calif. Abortion Rights Action League.
Judiciary: Opposed Clarence Thomas.

"Any people anywhere being inclined and having the power have the right to rise up and shake off the existing government, and form a new one that suits them better. This is a most valuable, a most sacred right - a right which we hope and believe is to liberate the world."

Abraham Lincoln, speech to Congress, January 12, 1848.

US House of Representatives

49th District

John Wallner

Lynn Schenk

Libertarian
Age 30
Background: Computer engineer and USD law student; *San Diego Law Review*; lives on sailboat; unsuccessful 1990 congressional candidate.
Abortion: Favors individual choice, but opposes government spending.
Handguns: Opposes gun control.
Deficit: Major concern. Proposes spending cuts of 4% for five years to balance budget; after 30 years the deficit will be gone.
Cities: Supports inner city economic enterprise zones.
Taxes: Opposes income taxes; supports tax cuts.
Healthcare: Supports healthcare vouchers for the poor and tax credits for medical expenditures.

Democrat
Age 47
Background: Univ. of California (B.A.), USD (J.D.); Moot Court Board; Jessup Int'l Team; Co-founder, Lawyers Club of San Diego; Co-founder, California Women Lawyers; member, Lorenz Alhadeff & Oggel; lost 1984 county supervisor race to mayoral candidate Susan Golding; served in Jerry Brown cabinet; currently on San Diego Board of Port Commissioners.
Handguns: Supports federal waiting period for handgun purchases.
Education: Opposes school voucher system.
Gay Rights: Favors legislation prohibiting discrimination in housing and employment.
Healthcare: Supports pay-or-play plan with business involvement.
Abortion: Supports abortion rights.

California Propositions

Proposition 161
Right to Die

Current California law recognizes the right of mentally competent adults to refuse medical treatment. Prop. 161 would permit a mentally competent terminally ill patient to authorize a physician to provide a medical procedure to end his life "in a painless, human, and dignified manner." The revocable authorization would require a writing with two witnesses. Participating physicians and hospitals would be protected from charges of unprofessional conduct and civil and criminal liability. The death of a patient who has requested aid-in-dying would not be considered a suicide and insurance benefits would be paid.

Proposition 162
Pension Protection

Designed to protect retirement benefits of government workers by stripping lawmakers of much of their power over pensions, Prop. 162 would give the individual boards of retirement exclusive power over investing pension money and administering pension programs. The boards would pick the actuary who decides governmental pension contributions.

Proposition 163
Snack Tax

In order to close a budget gap last year, taxes

were imposed on snack foods, candy and bottled water. Prop. 163 would repeal this tax and establish a constitutional prohibition against sales and use taxation of food products by state and local governments. Removing the snack tax would cut state tax revenue by approximately \$210 million this fiscal year, and \$330 million a year afterward.

Proposition 164
Term Limits

There are currently no term limits on California's Congressional representatives. Prop. 164 would limit the terms of California members of the House to 6 years out of the previous 17. The measure would also allow any office holder to campaign for congress as a write-in candidate once their time limit had expired. Service prior to 1993 would be excluded.

Proposition 165
Welfare, Budget

Prop. 165 would revise the budgetary process to give the governor more control over public spending and would reduce existing welfare benefits. There are two aspects to the measure: **Budget Powers:** The governor and members of Legislature would forfeit their salaries and expense money if no budget is enacted by June 15. This measure would enable the governor to

bypass the Legislature and cut state spending after declaring a fiscal emergency if the Legislature failed to enact a new budget by July 1, or if the gap between what the state earned and spent was at least 3%.

Welfare Program: Aid to Families with Dependent Children (AFDC) grants would be cut by 4.2 % and another 15 % if the able-bodied members of the family don't have a job within 6 months. Grants to teen AFDC parents in high school would be increased or decreased by \$50 based on school attendance. Most teen-aged parents could not receive welfare unless they live at home with their families. Welfare women would no longer receive extra money for additional children.

Proposition 166
Health Insurance

This measure would make California employers provide health insurance to most workers and their families. It would require covered employees to work at least 17.5 hrs/week, or 70/month, and workers to contribute the lesser of 25% of insurance premium or 2% of wages. Insurers would be prohibited from canceling policies for sick people, or denying coverage for existing medical conditions.

Proposition 167
State Taxes

This measure would make significant changes in many state taxes. **Tax Cuts:** The state sales

Mayor of San Diego

Peter Navarro

Independent
Age 42
Background: Holds PhD in economics from Harvard; has never held public office before, but previously a Republican and before that a Democrat. UC Irvine associate professor of economics; lives in Del Mar; the *LA Times* reported that as of Oct. 23 he had spent \$390,000 of his family inheritance money on the campaign.
Airport: Questions feasibility of joint-Mexico int'l airport.
Sewage: Opposes federally mandated multibillion dollar upgrade of sewage treatment process.
Developers: Portrayed as anti-growth and anti-business; blames for many of city's ills; proposes they pay their fair share of infrastructure costs that increase with growth; has proposed housing caps in the past.
Taxes: Use property taxes to cover other civic costs.
Jobs: Programs include zoning code changes and biotech industry inducements.
Crime: Hire more police. Buy more equipment with developer fees. Concentrate on drug enforcement.

Susan Golding

Age 46
Background: Current San Diego County Supervisor; served on City Council.
Airport: Questions feasibility of joint-Mexico airport.
Sewage: Opposes federally mandated multibillion dollar upgrade of sewage treatment process.
Developers: Developer fees should cover some civic costs.
Jobs: Programs include tax incentives, guaranteed water source, zoning changes and specific inducements for the biotech industry.
Crime: Hire more police through property tax increases.

tax would be reduced from 6 percent to 5.25 percent. The sales tax on snack food, candy, bottled water, newspapers, and magazines would be eliminated. Tax credit for all renters would be restored.

Tax Increases: Increases would be made by raising state tax rates for top personal income tax payers from 11 - 12 %. The current tax rate for corporations of 9.3 % would be increased to 10.3 %. Banks and financial corporations would be subject to local business and property taxes. Real estate owned by most publicly held corporations would be reassessed every three years.

State Senate

39th District

Jim Ellis

Lucy Killea

Republican
Age 63
Background: Businessman, former city councilman, and retired state senator.
Taxes: Reduce to compete with other states.
Healthcare: Supports a national system over a state system because he is concerned that state benefits will attract indigents to Calif.
Abortion: "Enemy of Choice" of Calif. Abortion Rights Action League; opposes abortion rights except in cases of rape, incest or danger to the mother's health; opposes government funding and supports parental notification.

Independent
Age 70 incumbent
Background: Democrat who turned independent last summer; former military intelligence analyst and member of city council.
Education: Priorities are reduced class size and educated work force.
Abortion: "Champion of Choice" of Calif. Abortion Rights Action League; supports abortion rights and government funding; opposes parental notification.

State Assembly

76th District 78th District

Mike Gotch

Deirdre "Dede" Alpert

Democrat
Age 45 incumbent
Background: Elected 1990; San Diego City Council; aide to Gary Hart's 1988 presidential campaign.
Environment: Has authored legislation to require state agencies to recycle trash.
Education: Authored legislation to increase money for special education.
Healthcare: Proposed legislation for increased availability of immunization shots to children.
Taxes: Supports tax incentives to retrain and attract business.
Abortion: Supports abortion rights.

Democrat
Age 45 incumbent
Background: Elected 1990; former school board member.
Education: Authored legislation requiring day-care providers to learn CPR.
Environment: Favors strong environmental protection while streamlining regulatory system.
Crime: Authored legislation outlawing possession of key ingredient methamphetamine.
Abortion: Supports abortion rights and governmental funding while opposing parental notification.

Dick Daleke

Jeff Marston

Republican
Age 60
Background: Retired Navy captain, having served for 31 years; 60% of funds raised in primary came from the Calif. Christian Coalition, said the *San Francisco Examiner*.
Healthcare: Public should cover healthcare costs for the indigent, but costs should be mitigated by welfare and immigration reform and through volunteerism.
Abortion: "Enemy of Choice" of Calif. Abortion Rights Action League; opposes abortion rights except when rape, incest, or to save the mother's life.

Republican
Age 37
Background: Aide to GOP officeholders for last 15 years; won a special election Assembly seat for 10 weeks in 1990, but lost it to Gotch.
Education: Wants to improve education by smaller class sizes and streamlined administration.
Abortion: Supports abortion rights and government funding, as well as parental notification.

"The government is us; we are the government, you and I."

Theodore Roosevelt, 1902

The Grate Debates

By Christopher Scott Trunzo

Motions Staff writer

The candidates came to the people; the candidates saw the people; the candidates left behind an utterly befuddled electorate. All three of the major party candidates (sorry, Libertarians) made only one thing perfectly clear: you cannot get a straight answer out of any of them. Never has so little been said in so many words.

The debate format was a three man news conference; there was no exchange of ideas; the candidates never directly addressed what the other two said. Each candidate gave an oblique response to "questions" from the media which were little more than softball pitches lobbed at the candidates. If you, in class, tried to answer a professor in this way, not only your professor, but your classmates would beat the tar out of you, or at least want to. The scary part was, the media muf-fins seemed satisfied with these semantically empty replies. The public questioners in the second debate wanted real answers; they asked for specifics, for numbers, but they were either overwhelmed by the elliptical verbiage or they simply gave up further questioning as a bad job. There was, however a reason behind this. Essentially, each candidate came into the forum with one idea and by god they were going to use it. Everyone knows who the candidates are. In the interest of fairness, I will identify each by his idea, and heap abuse atop disdain with equal opportunity in exposing what the candidate's idea means.

TRUST. What this really means is: "Hey, I've done some pretty good things for you lately, but of course I've also pulled a few major boners in my time. Still, isn't

it better to stick with the devil you know than the devil you don't know?" Mr. Trust is often accused of running a negative campaign. His central message is: "Despite the fact that I may not have performed for you, the other guy will only do worse. By the way, forget about that lunatic fringe of my party, you know the ones, I just pander to them in election years for their support. You can TRUST me!" The candidate of Trust would like everyone to forget about what his party supports and develop selective amnesia about the past. Mr. Trust asks you to vote for a person, not a platform, not his policies.

CHANGE. What this really means is: "Sure, you may be unsure about my character, you may think I'm 'slick,' but aren't I better than that stooge Mr. Trust?" Is this not as equally negative a campaign message as Mr. Trust's? What you are being asked to do is to focus on the issues, as long as those issues don't include anybody's personal history, or the specifics of the revenue collection half of their economic plan. Mr. Change basically says: "Can I do any worse than the incumbent?" He asks you to ignore the fact that he has made flatly contradictory promises to everyone and vote for a platform, not a person.

LET'S STICK TO THE ISSUES. This really means: "I don't know what the hell you're talking about; I've never thought of that before." Mr. Issues is really Mr. Issue (singular). Like a band that can only play one song, albeit a pretty good one, he bangs on about the same damn thing over and over. As long as he stays on his favored ground, he looks good. Anybody can play one tune well. When Mr. Issue gets off The Issue, he looks foolish, mean, or unprepared. He can, when called out, always point out that his roots are in the grass -- with several billion dollars

of fertilizer under it. Mr. Issue has tunnel vision: he will eliminate the debt, but at the expense of everything else. Mr. Issue wants you to focus -- and vote for him. It would be the most amazing thing that ever happened.

The three candidates' roles have been assigned to them historically. Ignoring needless complexities, every election, especially those in hard economic times, by definition takes the cast of Status Quo versus Change. When the candidate of the party in power's record is ambiguous or even bad, he takes the road of Trust. See, e.g., Carter '80, Ford '76, Nixon '60, Truman '48, Hoover '32, etc. Change always runs against Trust. See Reagan '80, Carter '76, Kennedy '60, Roosevelt '32. This is not an endorsement of the candidate of change, but historically he has an advantage: every one of the "change" candidates listed above won. In the past 120 years, whenever a third party candidate has taken on national prominence, it has been because of a single issue: Lincoln on Slavery in 1860, Teddy Roosevelt in 1912, George Wallace on state's rights. The two major parties have broad based followings and have made a habit of incorporating new and popular ideas into their platforms. The only way to run against them is to focus relentlessly on a single issue and give it more time, prominence and attention than the broad based parties with multiple concerns can afford to.

The approximately 50% of the American public that will bother to vote will be doing so not on the basis of the person, or the platform, but on the idea they represent: Change, Trust or Focus on the Debt. I hope I haven't changed anybody's mind. Only you can and should do that. But I hope you do vote!

An Evening with Professor Bersin (and Bill Clinton)

By Sandra L. Johnson

I suppose I shouldn't have been surprised, but I was. On the evening of October 14, visiting law professor Alan Bersin spoke to a diverse group of students, faculty and visitors in Camino Hall. Professor Bersin is the Campaign Manager for San Diegans for Clinton/Gore. Not only have I been a Republican since before I was old enough to vote, but I have voted for Republicans in the last few elections and intended to vote for the Republican candidate in this election. Not that I have definitely changed my mind about who to vote for. Professor Bersin just made me a lot less sure that I was voting for the right candidate.

Professor Bersin comes to USD with an outstanding background. He is currently on leave from the Los Angeles law firm of Munger, Tolles & Olson. As a partner of that firm, Professor Bersin has represented such clients as the Salomon Brothers of Wall Street and the Philippine government. He is a graduate of Harvard and of Yale Law School. He also attended Oxford on a Rhodes Scholarship. His classmates at Yale included the likes of Bill and Hilary Clinton and Clarence Thomas. In addition to his high academics, Professor Bersin was an outstanding football player at Harvard. Credentials aside, he is a dynamic speaker.

Professor Bersin's subject was "Bill Clinton: The Person and His Policies." He took us on a journey through the events which shaped the lives of both himself and Bill Clinton. He brought to this writer a new understanding of their generation and how they formed their ideas.

In 1960, John F. Kennedy was elected president. The young people of the time had no longer been shaped by the Great Depression or the Russian Revolution. They were instead influenced by the Cold War and the dedication to public service as seen in those they looked up to. JFK set an example for Bill Clinton which resulted in law school and a dedication to public service.

During Bill Clinton's formative years he was surrounded by a liberal environment. Professor Bersin remembers Clarence Thomas as being one of the very

few of their classmates at Yale Law School who was not a liberal. Most young people felt compassion for the poor and concern about exercising potentially oppressive military force abroad. During these years the news was full of Vietnam and the assassinations of Bobby Kennedy and Martin Luther King, Jr. As Bill Clinton and Professor Bersin were finishing law school, America began to see a corruption of the American political process. The Watergate scandal broke in 1972, and President Nixon resigned. In 1976, Bill Clinton began his career in public service as the Arkansas attorney general. These years of amazing changes and difficult challenges are what shaped the Bill Clinton of 1992.

Regarding the economy Professor Bersin explained three areas foremost on the Clinton agenda: healthcare, creating jobs and education. Healthcare costs must be controlled to redirect funds to other needed areas. Creating jobs is a major challenge. Our job prospects today are not as good as our parents' when they were our age. A national service fund should be established to provide loan repayment assistance to those pursuing public service careers. Bill Clinton could take some advice in this area from our own Loan Repayment Assistance Program (LRAP) committee which has already progressed toward creating such a program at USD.

Professor Bersin concluded by describing some major changes which could occur should Bill Clinton be elected president. The people will be educated about the true nature of our national problems. Women will truly and honestly have an equal role in society. Our leaders will communicate with us and change the way policies are made.

This writer has a couple of conclusions of her own. 1) Bill Clinton needs more people like Alan Bersin on his campaign staff. 2) Americans need to carefully choose their candidate for president. Listen to both sides. I still haven't decided! 3) Most of all, for America to revitalize everyone is going to have to make sacrifices. As Professor Bersin quoted John F. Kennedy, "Ask not what your country can do for you, but what you can do for your country."

Election Result Cast in Stone?

By D. Espy

Motions Staff writer

Political analysts are again raising the possibility of the selection of the next president by the House of Representatives. Popular wisdom, at least this week, is that Clinton voters, convinced of the inevitability of a Democratic victory on November 3, will choose to reg-

ister a protest vote for Ross Perot. Clinton's supporters are seen as a relatively volatile group, more supporting a "not-Bush" ticket than affirmatively supporting Clinton/Gore.

If this Perot-shift phenomenon materializes to a degree which prevents an electoral majority for either of the major party candidates, a House member from each state will cast one vote for one of the top three finishers. This process could produce a president who came in second or even third in popular votes.

The expectation, according to Alexander Hamilton, was that the Representatives would cast their votes for the person most qualified for office. However, in the unlikely event of a House selection, most if not all votes will be cast along party lines. With all of the House seats up for election this fall, candidates are being forced to announce their positions. With a Democratic Congress and an almost certain popular Clinton victory, we needn't expect any surprises.

Politics from page 14

ances of people who have been oppressed throughout our history would cause chaos in the Republican party. They'd have to share the wealth. And the power. And they just aren't willing to give it all up yet. It's about hope versus fear.

It happened again when they brought up the Vietnam War. "Protesters are bad. We all have to fight for 'our country.'" Encouraging the suppression of divergent opinion would seem to deny that "our country" was founded on protest and that many of the events we celebrate with so much pride are actually commemorations of our protests against our former mother country, England.

All of this discussion reminds me of two specific incidents which took place during the Vietnam War. Even at the time they went practically unnoticed and now have long been forgotten. On November 2, 1965, outside the Pentagon in Washington, D.C., Norman Morrison, a thirty-two year old pacifist father of three, stood below the window of Secretary of Defense Robert McNamara, doused himself with kerosene, and set himself afire, giving up his life in protest of the war. Also in 1965, an eighty-two year old woman in Detroit, Alice Herz, burned herself to death to make a statement about the horrors taking place in Vietnam.

Clinton maintains Vietnam stance

The Spanish philosopher, Miguel Unamuno, said during the Spanish Civil War, "Sometimes to be silent is to lie." I give Bill Clinton credit for standing behind his belief that the war was wrong. He thought it was wrong then and said so. He still believes that it was wrong and still says so. And I am disturbed that the current president of this country could be so politically self-centered as to once again attempt to divide the nation for his own political gain.

Fortunately, it appears that this time around, the American people aren't falling for it. The electorate is ready to vote based on serious issues such as how the government has treated them personally for the last twelve years. The time for divisive tactics appears over for the Republicans.

Republicans consider Clinton

My dad, for example, has been voting for winning presidential candidates for more than 40 years, and this year my Reagan Republican father will be voting for Bill Clinton. As a matter of fact, from what I can tell, he'll be voting mostly Democratic this year. I would like to take all of the credit for his miraculous conversion. However, I think his early retirement, sudden reliance on a Social Security check and, therefore, recently being on the receiving end of trickle down economics has had a lot to do with it as well. He has hope that things will be different for his future, and in particular, hopes that things will be very different for my future. Hope versus fear.

Equity from page 14

competitors with any question about the rules should have asked a member of the Board for clarification.

In the interest of brevity, this letter is not going to address the considerable liberty taken by the authors in their rendition of the facts, with one exception. The authors suggest that the Board's unwillingness to procure extra judges for the excluded competitors was a factor in the decision. Besides being an affront to the ethical standards of the Board, this accusation lacks any foundation in truth. Considering that over 2,000 potential judges were contacted over two months before the competition, it is difficult to imagine that the Board would sacrifice the rights of eight individuals in order to avoid having to procure eight more judges.

The Authors' Questions

The authors of the letter demanded that certain questions be answered. We have provided the answers below.

1. "Isn't it likely that because the dates were mistaken in the rules that the rule was drafted carelessly?"

No. These rules have been used for a number of years without incident. Furthermore, the "Monday" type was corrected at the kegger and on the office door; regardless, the correct date represented an extension of the time in which to sign up.

2. "If the sign-up was so important why

wasn't it in Sidebar?"

Sidebar is an alternative means of information, generally used by the Board to announce competitions and results. It does not represent a source for competition rules. If we depended on it for deadline notification, no doubt future challenges to timeliness and notice would follow.

3. "If getting the problem (at the kegger) was not an official 'signup,' [sic] why require the students to leave their phone number?"

The first sign-up serves two purposes. First, it gauges the number of problems distributed so that an appropriate number of judges can be confirmed. Second, it allows the Board to reference competitors accused of Honor Code or competition rule violations.

4. "Because this is such a harsh position for the Board to take, what are its motivations?"

Equity and accurate simulation of practice. The authors are correct when they state that the purpose of the Moot Court competitions is to "prepare students to be successful oral advocates," but this is only half of the picture. The rule structure and commensurate deadlines result in administrative convenience, but more importantly serve to simulate real practice and strict adherence to judicial rules. The necessary result is that equity will follow. It goes without saying that the equity is hard to see when you are one of the disqualified competitors; indeed, not once in their plea for fairness did the authors discuss equity for the forty-seven (47) competitors who complied with the rules. This is what ultimately guided and demanded the decision reached, regardless of the compassion felt for those precluded from competing.

The Future

1. The critical deadline sheet has been rewritten to completely clarify sign-up dates and deadlines.

2. Informational meetings at noon and in the evening will be held for all remaining competitions. We will hand out problems the day prior to these meetings in the hope that competitors will read and ask questions at the meetings.

3. We will continue to hold office hours, both posted and informal. As always, stop by if you have a question. If we aren't there, leave a note, call, or stop one of us on campus. We are committed to making the program work for everyone involved.

The Moot Court Board

Hill from page 1

by the Honorable Rosanne Buckner and Ann Parode, which quite honestly I don't remember and I didn't take notes on. Then the Honorable Susan Finley got up to introduce Anita Hill. This I do remember because Judge Finley reminded us that 2500 women are running for nationally elected offices this year. And that many of these women are running in response to last October's hearings. With that said she introduced Professor Anita Hill.

Anita Hill is very slim and very beautiful. This may strike you as an inappropriate observation, but it was the first thing I noticed. She wore a very feminine lavender suit and started off her talk by saying, "This group is more diverse than one body I have recently addressed." She has a sense of humor. None of this came through on television last year. I didn't remember her having the charm she elicited Friday afternoon. I was pleasantly surprised.

Anita Hill is a professor of law at the University of Oklahoma. She is a professor, and she gave her lecture like one. She was easy to follow, and it was very easy for me to take almost verbatim notes. Professor Hill didn't focus on her personal experiences. Instead she outlined three issues: sexual harassment; domestic violence and acquaintance

tance rape; and the similarities between the three.

Professor Hill identified the three similarities as being first, the way society approaches these three issues; second, the willingness of the law to reflect society's responses; and third, the impact this has on women. Each of these issues is about the abuse of power, be it physical or verbal, violent or nonviolent. What I found interesting was her contention that the law has reflected society's reaction to these issues based on the myths and stereotypes that surround them.

I have been thinking about how to write about my impressions of the luncheon. Should I write out what Professor Hill said? After all, I did take notes. I've decided that's not what really impressed me. Yes, she gave an interesting lecture, tracing the historical roots of sexual harassment. She addressed domestic violence and acquaintance rape and drew similarities between the three. She pointed out the urgency of putting sexual harassment into its social context to help get at the core of the problem. All of this is important, and I don't mean to brush it off. But it wasn't all what she said that impressed me the most.

What impressed me more was the fact that I was at a luncheon with 1100 very powerful women. Most of these women were judges from around the world. Any first year can tell you about the power judges wield. The balance was made up of successful attorneys from the toniest law firms. Professor Hill asked how many in the room had either been personally sexually harassed or witnessed sexual harassment. 90% of the audience raised their hands. That blew me away. 90% of an audience comprised of highly intelligent, successful, motivated and ambitious women raised their hands. What does that tell us? Is anyone safe from sexual harassment? Is that what you have to endure to achieve your goals? I'd like to think not, but if an audience of judges and lawyers raised their hands, is anyone safe?

Therein lies the core of the issue. Professor Hill maintains that traditionally the law has had a masculine voice. Arguably, politics has had the same voice. But with more and more women entering the legal profession as lawyers and judges, and running for political offices, perhaps the law will acquire a feminine counter-voice. Perhaps there is an identifiable feminine voice even now. Hopefully having a woman's perspective on the bench hearing these types of cases will have an impact. Hopefully having more and more women drafting laws in Washington will have an impact. And hopefully when my daughters attend a luncheon, and someone asks if they've experienced or witnessed sexual harassment, they won't have to raise their hands.

Letters

Motions welcomes Letters to the Editor. However, we retain the right to edit letters. We retain the right to print as little as a single paragraph of a lengthy epistle. Preferred length is 100-300 words.

Letters may be delivered to *Motions* mailboxes in the Warren Hall faculty mailbox, Warren Hall student organization mail area, Stacie Brandt's student Pendaflex folder, or outside the *Motions* office on UC first floor near the Grille.

Motions regrets that APALSA was incorrectly described as a new student organization in the Oct. 13 issue.

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We Hold These Truths, Sex And Other Ramblings

By Sabin Celatka

Lawyers are essential to a free and democratic society. Lawyers are warriors for liberty and freedom, assailing injustice and relentlessly seeking the truth. It is every American's God-given right to sue anyone for anything. That first pee in the morning always feels good.

A couple of weeks ago I saw a huge old Cadillac in downtown San Diego. It was painted orange and was being used as a taxicab. On the back of the Cadillac was a placard with the words "Made in America. 403,000 Miles and Still Going Strong." I was proud.

Sioux Falls, South Dakota was recently chosen by Money Magazine as the number one, best place to live in America during the magazine's annual survey. You figure it out. Nevertheless, San Diego persists in keeping the moniker "America's Finest City." I have no objections.

After a good rain in January, Los Angeles is one of the most beautiful cities in the world to view. The remainder of the year it is not. New York is still the Big Apple. I love Vermont. A four season climate does have its merits. A virgin snowfall is a wonder and a beauty of nature, if you don't have to drive in it. Every place on Earth must deal with some perils of nature. When you get right down to it, there are worse places to be than San Diego, California.

Drugs destroy lives.

Guns have useful purposes too.

Cigarette smoking is enjoyable.

Adultery is no longer against the law in some states. Oral sex is still against the law in many states.

Car-jacking is the fastest growing crime in the United States.

Dawn is a very peaceful time of day.

Recently in Tijuana, in order to install the final segment of a new water line, the authorities shut off the water supply for three days. That's unpleasant.

Surveys over the past two decades have consistently shown that the parts of the male anatomy that appeal to women the most are the eyes and the buttocks, in that order. The parts of the female anatomy that appeal to men the most are the breasts or the legs, and the buttocks. No surprises there. Both sexes also place a considerable premium on a person's intelligence, sense of humor, charm, self-confidence, passion, zest for life, and the ability to make one's partner feel like the only person in the world that matters.

What about tattoos?

Light beer is made by watering down regular beer. Non-alcoholic beer tastes pretty good. Really.

The California Grizzly Bear that emblazons the state flag is extinct and has been for some time.

A fine looking young woman in my neighborhood has personalized license plates on her car, "SCUBA". So I asked her one day, "Is that your name or would you like me to go down?"

Even if you don't surf you can still enjoy the lifestyle.

Have you ever noticed that urban dwellers indulge in tacky and ostentatious displays of wealth? Those of us from rural areas don't understand this, but it does amuse us considerably.

If Quebec separates from Canada, will the U.S. get the Canadian Maritime Provinces?

During the Bush presidency, the U.S. economy has had its poorest performance since the Great Depression.

If voter turnout is extremely low on Election Day, my vote counts even more, doesn't it?

Everyone feels reamed after getting auto repairs.

Apathy is good for your health.

How could anyone not love little children?

Why do people enroute to a health club spend time looking for the closest parking space?

Wearing neckties or high heels is uncomfortable and unnatural for the human body.

Perceptions of beauty and style have changed constantly throughout human history.

If you had to live in any other nation except the United States, which would it be?

If you had a guaranteed income of one million dollars a year for life, what would you do? Really?

Inhibitions are bad for your love life.

Law School still beats the hell out of working for a living.

A woman is like a fine musical instrument. You have to treat her with great skill and attention to make music.

Sinatra sings DAMN GOOD SONGS.

What's your favorite letter in the alphabet? "Q". Because it's never alone, it always has to have you by its side.

Live long and prosper.

THE END

Put Up Or Shut Up Democrats

By Dallas O'Day

Motions Staff Writer

The other day I got in a political argument with my roommate. No surprise there: my friends think my political outlook places me somewhere to the right of Attila the Hun, and my roommate is a volunteer for Barbara Boxer. This particular argument was set off by my roommate's fervent insistence that our country's plight is the result of 12 years of Republican economic policy foisted upon us by the Reagan and Bush administrations.

No surprise there, either: Clinton has been repeating that theme ad nauseam. What does surprise me is my roommate's ignoring Congress' role in the current economic mess. To listen to him, one would think that Reagan and Bush were single-handedly responsible for the recession, the trade deficit, the S&L crisis, and virtually everything else. Of course, our insipid high school civics classes taught us that Congress is the equal of the executive branch. What this means (in simple terms, so my Democrat friends can understand) is that the President cannot force Congress to pass legislation it dislikes. This is even more obvious when the two branches are controlled by different parties. Except in 1980-1986 when the Republicans had the Senate majority, Congress has been a Democratic enclave for 30+ years.

As I pointed out (unsuccessfully) to my roommate, Congress bears an equal share in the mismanagement of our economy. If the Democrats are so against "trickle down" economics, why didn't they vote against it? Reagan and Bush didn't put guns to their heads. The Congress voted the way it did for one reason: the proposals were popular.

Now, Congressmen are supposed to vote for things their constituents favor. I'm not trying to blame the Congress for pandering to its constituents' wishes. My problem is that my idiot friends seem to have forgotten that the Congress is an equal partner in domestic politics. In some

respects, it has greater power and responsibilities than the executive branch because of its oversight functions. Take, for example, the S&L problem.

The S&L crisis is about as exciting as a Trusts & Estates lecture. But it is a major problem that could have been dealt with, at a much lower cost, years ago. The Democrat line on the S&L problem is that Reagan-Bush deregulated the industry and then allowed criminals to work their wonders. This is correct insofar as the executive policy was to deregulate the industry. However, it omits the fact that the bailout will cost much more because the Congress 1) raised the limit on federally insured deposits from \$40,000 to \$100,000; 2) passed the legislation that permitted S&L operators to invest in anything and everything; and 3) blocked effective oversight of the industry because it became so addicted to S&L political contributions that anything that threatened the cash flow had to be stopped. Most of the money went to incumbents, mostly Democrats. Anyone remember the Keating 5?

Let's face it. The S&L fiasco was a true bipartisan effort. But it also proves something else: Congress is populated by a bunch of wankers. Unfortunately, the wanker brigade is about to be reinforced by a new batch of liberal bucketheads claiming to represent "change." The laughable idea in this year's election is that there are so many Democrats promising change. Really. Can anyone explain to me how a vote for Barbara Boxer, an incumbent Congresswoman who bounced checks from here to eternity and voted herself a 23% pay raise, is a vote for change in Congress? Why not vote for someone who advocates eliminating three federal departments and a limited government? Herschensohn may be scary on the social issues, but he is the true candidate for change.

Well, my friends who are liberals, femiNazis, socialists, or simply Republican haters have got to be stoked. Clinton in the White House and a Democrat-controlled Congress. I hope for myself, my classmates, and the country that they can do something with the economy. But if they can't, I'm happy knowing that they'll have no one to blame but themselves.

College Republicans Come to USD Law School

By Michele Brown

College Republicans, CRs, is a nationwide organization of college and graduate students. The organization exists in order to allow young people to become involved in the political process, serving as training grounds for future Republican leaders.

These clubs provide a forum for young people to demonstrate their leadership potential through political activism. By walking precincts, working phone banks, pack-

aging campaign materials, and hosting receptions, members begin to understand and appreciate the complexities of the political process.

CRs also attend conventions and victory celebrations (whether Republicans win or lose). The valuable contacts which CRs make give them a competitive edge in professional and political situations.

The Law School CRs has both short and long term goals. The first major goal will be achieved this week when they receive SBA registration. The club desires to become a strong and permanent voice on campus by bringing well known political activists and politicians to the campus.

Since it is often difficult to divorce poli-

tics from the law, the goal is to encourage discussion of both legal and political issues. The law school CRs also intend to work closely with the USD undergraduate CRs and the Young Republicans, another national political group.

Currently, the club is sponsoring a "Top of the Ticket" precinct walk for Republican candidates on Saturday, October 31. Anybody interested should call the Republican Campaign Headquarters at 573-1992, or show up at 10am at the headquarters office: 4202 Genesee, Suite 100, in the Clairmont Mesa area.

"We want to exert influence over issues and work for solutions," commented the new club's founder.

BAR REVIEW:

Hollywood and Gringo on the Political Prowl

JOSE MURPHY'S

4302 MISSION BLVD., PACIFIC BEACH

Hollywood: George Herbert Walker Bush would like this bar not only because of its many names but because it represents the accomplishment of borderless free trade. Nations like Mexico or Malaysia import consumer goods like Corona Beer, Cuervo Tequila or Nike athletic shoes at reasonable prices because they do not have to pay import tariffs, decent wages to their employees, or abide by environmental regulations at home. Rumor had it Corona employees retaliated against their Yankee oppressors by making "special recipe" beer, and Nike pays its employees a wage low even by Malaysian standards. Environmental standards in those countries are basically non-existent. The great temple in Malaysia is wasting away because of acid rain, and San Diego needs to install a water purifier because of the pollution from Tijuana. Even if NAFTA deports all manufacturing jobs from California, with any luck we should have more great bars.

George Bush would appreciate Jose Murphy's. Unlike his recent kegger in Japan, here he could party hardy, eat the worm, blow chunks (Jose Murphy's serves sake) off the balcony, fall down, and no one would notice.

Gringo: Jose Murphy's is a fine place, full of good honest people - your pal Slick Willy wouldn't fit in. Hollywood, I can't believe that you fall for this insurance salesman panderer. OK, I'll grant you that the Environmental President has a few flaws (like Dan Quayle, the economy, all of his domestic policies, trickle down theory, and the fact that he's always hanging around with his mother - why doesn't George get married? - OK, apologies to Barb: anyone who quotes Ferris Bueller can't be all that bad), BUT I can't imagine anything more Halloweeny-scary than your liberal, free-spending Congress getting a president with their same lack of good sense! Aside from ruining the ecological future of the world at Rio, creating Saddam Hussein, and lawyer bashing all the time, George Bush isn't such a bad guy. Read my lips: NO NEW LIBERALS! What we really need to do is get Dan-o after the AMA instead of the ABA; he could do more to cut medical costs in this country if he just got the AMA to quit restricting medical school admissions (anyone remember the law of supply and demand?).

Go to Jose Murphy's. The prices won't put you four trillion dollars in debt. Avoid George Bush like garlic on a first date, like drinking and driving, like the new Madonna book (for the same \$50 you could get a year and a half of *Hustler* or *Penthouse*: same porno, better babes, more variety).

KELLY'S PUB

2222 SAN DIEGO AVENUE, OLD TOWN

Hollywood: Anyone religious enough to support partying Republicans would appreciate the family values Kelly's espouses: a nice, homey feeling, Guinness and Harp on tap, and Irish folk songs to remind one of the homeland. Pat Buchanan would like this bar because many of the patrons wear short skirts, so he could easily look up them to see if anyone is cross-dressing. It's even close to Old Town, so everyone can go to church in the morning with whomever they met the night before.

Speaking of women's rights (which by the way the Republican Convention did not), the only qualifications Barbara Bush or Marilyn Quayle have to talk about the role of women is cookie baking or pillow talk! America's first ladies should come to California where two women, Barbara Boxer and Dianne Feinstein, are running for the U.S. Senate. Barbara Boxer was the congresswoman who exposed the Pentagon's outrageous spending of \$7,600 on coffee pots. Dianne Feinstein, former San Francisco Mayor, healed a city paralyzed by the assassinations of its mayor and a supervisor and guided it to be America's favorite city for tourism. Both support a woman's right to exercise control her own body.

Ross Perot would have split opinions about the crowd which frequents Kelly's. He would like the clean cut guys from Neon Law (WSU) because they are mostly white and have short hair, like himself. However, he might find the use of foul language and the predominating goal of finding women of low moral values not to his liking. Like his days in the Navy, being on the board of directors at General Motors, or running for the presidency, he would probably leave in disgust.

Gringo: Now here's a great Irish pub. They serve great beers on tap at reasonable prices, and there ain't a person in there that actually believes a draft dodger should be president. (This applies to Dane Quaylee, as well as Willy Boy.) It's bad enough that Clinton had to change his story six times about how he stayed out of the war, but he's probably going to make Pat Schroeder the Secretary of Defense! This woman authored a bill to cut our overseas troops in half in 1982 - practically at the height of the Cold War - certainly Reagan's escalation of it. And *Tipper Gore*!? PLEASE, Hollywood. She could never fit in at Kelly's because she'd keep turning off the juke box! This psycho woman runs the campaign against rock and roll lyrics, for christsake. Hell, she probably spends her nights at home with Al playing Beatles albums backwards to hear the demonic messages. Who would marry this woman? I'll tell ya who, the same guy who gives speeches about how guilty he feels to drive his air conditioned car to his speeches! RIDEAGODDAMNBIKE!! You and your green president. And speaking of Arkansas, is it the #1 state in everything or the #50 state? These debates just confuse me. And if Clinton gets elected, do I have to marry my cousin?

On the other hand, Kelly's is the kind of place that GENNIFER FLOWERS might like! Remember her?? You never heard about George cheating on Barb, didja? Well God knows I would have if I were him. Go to Kelly's. Avoid Bill Clinton like televangelists, like big government, like discussing the abortion issue at parties.

GRINGO'S PICK O' THE MONTH

Ned Kelly's

KOWLOON, HONG KONG

I haven't been to Ned Kelly's in a few years, but it was one of the best places for fun this side of Texas; the kind of place Ross Perot would appreciate. (Well, tell me about it Gringo, I'm ALL EARS!). OK, let's talk facts. The biggest problems in the country are economic. They've been caused because presidents have been too busy handling the bigger problems of yesteryear like the Cold War (except Kennedy who was too busy chasing babes). It's time to elect a *businessman*. It would be a darn sight better to elect a nonpartisan candidate who, by virtue of his being elected outside of the party

system, will command a new and different authority in Washington ("KING ROSS I;" I like the sound of it! Our first monarch since FDR); he can get stuff done.

Ross knows how to deal with Congressmen & Senators: he's been buying and selling them for years! OK,



Stockdale is a bit lame but he's a Vietnam Vet! He does well at offsetting the fact that Perot tried to get out of the service because the sailors swore too much! Wouldn't it be nice to have a president who got elected on his own without taking bribes from all the special interest groups just to fund his campaign? If for no other reason, vote for Perot because the other two candidates are such blatant incompetents, liars, and self-serving idiots. Besides, Ross has lots of daughters.

The president isn't just a diplomat anymore. Now he has to be an ace administrator and economist. That's why I think you should go to Ned Kelly's Saloon next time you're in Hong Kong. Just take the ferry over to the Kowloon side and party your brains out. Don't forget to vote before you go.

HOLLYWOOD'S RAGE OF THE MONTH

The Morena Club

1319 MORENA BLVD.

"Look Poppy, a place for us!" George Bush and all of his Yalie Skull & Bones buddies would like this place. I can easily imagine them guzzling brew for cheap (the Mo Club sells no liquor and only wine in a box), and making self-congratulatory jokes about the other local schools like, "Yestahday, ah pahked mah cah in Hahvahd Yahd!" Quayle obviously spent time in places like this: by

his father's admission Quayle spent most of his college days chasing booze and broads, and the remainder of his time on the links.

I don't know how George acquired the nickname "wimp," but I do know how he tried to get rid of it. He hired Saddam Hussein to go to war by selling him dual-use computers and information (against the warnings of the head of the company and his own staff) and then paid



for Iraq's buildup by giving them government supported loans! He fared no better in the domestic arena. Regarding the economy (with help from Raygun), he used his superior knowledge of voodoo economics to get this country in deep doo-doo. He helped transform the U.S. from the biggest creditor nation to the biggest debtor nation and now to the biggest beggar nation. (Or was he practicing for his new job as a care salesman? I can imagine his sales pitch: "Read my lips! No hidden taxes!")

After you practice the great American institution of voting, visit a true, honest-to-God Made-in-America bar which specializes in the basics: beer, burgers and billiards.

Letters to the Editor

Night School Discrimination?

Dean Strachan, can we talk? You are a practical woman: you would not be the Dean of a law school if you weren't. It is essential for a practical person to abandon a strategy which, although it had great promise in the planning stage, fails abjectly in practice.

I am referring, of course, to the plan to rid the USD School of Law of night students. I know, I know, the plan looked great on paper. Hold classes at 6:00 p.m., but provide no place to park. Sure, they can pay for their classes, but by the time they drive from work to school, park half way to God's House, and hike back to Pay-Us-Enough-Money-and-You-Can-Call-It-Anything-You-Want Hall, the class is half over.

The library hours should clue

them in that they are not wanted. The poor nine to five sap who gets out of class at 8:45pm has an excessive three hours to study after class on Mondays through Thursdays. But just let him try to use the computer lab. He has one long hour before they kick his over-achieving butt out. And on Friday nights and Saturdays, when these nocturnal students have time to really knuckle down at the library, it closes early! Meanwhile, we day students are out drinking and having a great time laughing at how tough the night students have it.

Career Placement hours are even better. Monday through Wednesday the office closes at five, but on Thursdays and Fridays, if Joe Night Student drives really fast straight from work, parks illegally and sprints through the Writs to the

Placement Office, he can probably make it just in time to see them close the door in his face at six o'clock.

This isn't to say that the University is acting alone: student organizations are doing their part, and we certainly appreciate their help. Four o'clock 'keg meetings' are over by the time these night students get to campus, and those who make it are too pious to partake before class. Noon lectures are obviously meant for day students only.

Despite our best attempts to show them that they are not wanted, these oblivious colleagues keep coming back. What do we do to end this plague of night students? Beat them about the kidneys with large branches? Charge them even more to take classes (they already usually end up paying more total tuition than we do)? We have been too subtle: direct action is required. I personally favor the Orval Faubus/George Wallace approach. Name Withheld on Request

Student for Diurnal Scholarship

Individual Responsibility, Group Equity: A Response to Criticisms of the Moot Court Program

This is a response to a letter published in the October 13th edition of *Motions*. It is offered only to clarify the events that led to the disqualification of the eight competitors during the Alumni Tort Moot Court Competition and to respond to the questions posed.

Let's state the obvious. No body on the Moot Court Board wants to disqualify a competitor, especially someone who has gone to the trouble of preparing a brief for the competition. Since eligibility for the Board requires participation in

at least two competitions, it would be difficult to imagine a group more empathetic to the amount of work put into these competitions. The decision to disqualify the competitors was made after a full Board meeting, consultation with our faculty advisor, and discussions with administration. The decision was based on a fair reading of the rules, the fact that forty-eight competitors successfully complied with the rule and the disqualification of a competitor who, two hours after the deadline had passed, realized that she had not complied with the

deadline. Fairness dictated treating the other eight competitors in the same fashion for the same mistake.

Any implication that the disqualification of the competitors was due to "omnipotence" or laziness of Board members is both unfair and blatantly untrue.

The Rules of the Competition

The letter to the editor took issue with the rules of the competition and stated that the second sign-up deadline was unclear, unfair and of no practical use. A dissertation on the rules and the information contained in the competitors' packets, which all competitors received upon signing up, would take up a lot of space. Suffice it to say that a careful reading of the rules, which stated a deadline for signing up on the Moot Court office door ("Monday, September 8th - Deadline to sign up at Moot Court office door by 6:00 p.m. **YOU MUST SIGN UP BY THIS DATE IN ORDER TO COMPETE. NO EXCEPTIONS.**" [emphasis in original]) and specifically noted that competitors must sign up for a side ("[E]ach competitor must sign up for the side they are writing for by the specified deadline..."), should have provided notice to competitors of the required second sign-up. Indeed, forty-seven (47) competitors got it right. At the very least,

See Equity page 11

L. Lucarelli

Gay Rights?

I have some questions for Ms. Carbone, who laments the fact that California "has not made the full leap" in granting homosexuals all the rights they demand. Query: Isn't it possible to recognize a rational distinction between classifications drawn along racial or ethnic lines, etc., and a classification based on behavior? Behavior which has been proscribed by law and mores for millennia, and which is strongly condemned by every major Western religion? Doesn't this universal, cross-cultural condemnation suggest that ho-

mosexuality is against human nature? Aren't things which contradict human nature (other examples are cannibalism and incest) morally wrong, even if the participants are willing?

Should homosexuals really occupy role model positions as teachers or scout leaders? If the law sanctions homosexual marriages, should homosexuals then be allowed to adopt children? Are any of these concerns answered merely by invoking the facile label of "bigotry?"

On the Left

Family Politics

By Judy Carbone

Motions Staff writer

"When water is polluted, fish choke; when government is harsh, people rebel." (A not so ancient Chinese proverb).

It is the year for rebellion. Twelve long years of Republican rule and trickle down economics have been harsh, and although I don't need to restate the obvious, the country is in rough shape. People are ready to try a different kind of national leadership, one that will work with us and not against us; one that will include all of us, and not just those at the top of the trickle down hierarchy. We are ready for the leadership of Bill Clinton and Al Gore.

The divisive tactics used by the Republicans during the last couple of Presidential elections need to be examined. I refer specifically to the Willie Horton campaign in 1988 and of the red-baiting, draft-dodging accusations that have been directed at Bill Clinton this year. Despite its

obvious racist overtones, the Willie Horton campaign played on people's prejudice and fear and actually did help the Bush/Quayle ticket in 1988. I'm still wondering what that says about the country.

Fortunately, despite their 1988 success, the Republicans realized that in 1992, in light of the urban riots, racial divisiveness was not the card to play. So they used Commie-baiting tactics instead. It was all they could do. Bill Clinton went to Russia as a Rhodes Scholar. Do they really think he went there to organize the downfall of the United States? Come on, for someone who is supposedly well-versed in international affairs, even George Bush must admit that the mere notion is ridiculous.

The Republican party has continually used tactics that divide our country for their own political gain. I admit that the Democrats aren't perfect, but at least the Clinton/Gore ticket attempts to bring together different groups of people, rather than emphasizing how we may keep them apart. Uniting classes and

See Politics page 11

On the Right

Death With Dignity

By L. Lucarelli

Motions Staff writer

It's hard to decide whether Prop. 161, the prospective Death With Dignity Act, is more amusing or disturbing.

Despite the sober nature of the subject matter of 161, and regardless of your views on euthanasia, you must admit that Prop. 161 is hilarious. For instance, the purpose of 161 is to enable a patient who wants to die to allow a doctor to kill him or her. Yet, the act declares that such an event involves neither homicide nor suicide. What exactly is it, then? A hybrid? Someone does die, right? Or so one would assume. But I guess it's hard to say. After all, the presiding "health care provider" doesn't kill the patient with "poison," but administers "aid-in-dying." You know -- like the stuff they inject into unwanted animals at the Humane Society. That rings about as true as calling "nourishment and hydration" a "medical procedure" which "would serve

only to prolong artificially the moment of death," a claim that 161 actually makes. That means that every time we get a burger at the Grille, we're just postponing the inevitable. Analytically correct, but hardly a reason or excuse for ending it all now.

Similarly fatuous is 161's claim that life support systems "provid[e] nothing medically necessary or beneficial to the patient." Isn't something that keeps a patient from dying "medically beneficial?" Or maybe the (possibly) permanent cessation of consciousness is a state of good health

What really gets me is 161's "safeguard" to make sure that the patient acts of his or her own volition. The act does nothing to prevent the parents or spouse of a patient from suggesting, asking, or begging that patient to end it all. It merely provides criminal sanctions against anyone "who coerces, pressures, or fraudulently induces another to execute a Directive" (suicide request). Great. I'm sure aged parents will notify the authorities if their children try to "pressure" them into

See Death page 7

Czar's Corner

Section A To Win it All... NOT

By Greg Cribbs

Intramural Jr. Czar

Here, Co-Rec participants, is the recognition and ink you were promised three weeks ago. But, before you read any further I want to inform you that I also reserve the right to protection under the Czar's disclaimer for the competitive league predictions (i.e., NO whining about your ranking). Therefore, the Jr. Czar's rankings and predictions are as follows.

1. NOT - This is a team that is loose on the field, loves to have fun, and really doesn't care about winning the game.... NOT!!! However, with their solid defense at every position, good sticks, and an attitude that makes the presidential candidates look like they're having fun, NOT looks poised to win it all.

2. DRUNK SLUTS - The name is a little misleading because it's only half right. Since most of the games are on Saturday mornings, usually the team is sober (hung over maybe, but at least not drunk). This only leaves the second part of their name to uphold its truth. Although they're a very solid team from top to bottom, their run to the title may fall short at the warning track, just like the many fly balls of their power hitter and captain "Fence" Brunkow.

3. KNUCKLEHEADS - They are another strong contender for the title, who appear to have only a few liabilities. One that surfaces now and again (usually during the early Saturday morning game following a late night at the Mo' Club) is the Czar's pitching. It doesn't look pretty, and sometimes it takes him a while to find the plate, but when he does, look out for this team! 4. GODZILLA - The APALSA team

has a sneaky sense about it. They look as though they're having fun and goofing around, but then the other team looks at the score board and finds themselves down by 10! However, they do have their weak moments when both their hitting and fielding is about as well timed as the voice dubbing of their namesake's movies.

5. SMILE WE SUCK - What can you say about this team, besides, well, they have to do a lot of smiling. They're led by their fearless captain, Paula, who coined the phrase "I got it, I got it! (sound of untouched fly ball hitting the turf)" The team seems to have adopted this as their motto. (Chances are slim to none, and Slim is out of town.)

6. SECTION C - I like to call this team my "Ross Perot" ballclub. One week they're in the league, the next week they're out, the next week back in, and etc., etc., etc. How-

Motions Top Ten

Top Ten Reasons to Vote:

10. Thrill of throwing off network exit polls.
9. Effective way to distinguish yourself from undergraduates.
8. Chance to write in Nipsy Russell for President.
7. Standing in a Linda Vista garage sure beats going to class.
6. Cookie treats from Brad Fields (SBA elections only).
5. Can confirm party leanings of your pinko neighbor.
4. It's fun to point and laugh at Peace and Freedom party candidates on the ballot.
3. Good practice for Scantron exam guessing.
2. Great place to pick up on retirees.
1. Ease of parking near balloting facilities.

ever, the name seems even more fitting when one takes a closer look. Like Ross, they're somewhat interesting, kind of humorous to watch, and have absolutely no chance to win!

7. SECTION B - AHHHH! The typical 1st year team: Beer, fun, beer, some talent, beer, errors, beer, singing and chanting, beer, LOSS. Although their competitive squad fielded a talented team, they seem to have depleted the available pool for Co-Rec via the "brain drain". 8. and 9. SECTION A (Eric) and SECTION A (Jeff) - Since the deadline for this article was before the "big game" between these teams, I

had no idea who to put on top (or bottom). This "game big" had all the hoopla one would expect from the first meeting between the Florida Marlins and the Colorado Rockies. Anyway, rest assured the winner of the game only deserves a one team buffer from rubbing noses with the faculty in the cellar.

10. FACULTY - Watching this team on the field can only cause reflection on the old adage, "Don't quit your day job." The play of the faculty illustrates a sobering example to law students about anyone's ability to possess both qualities of professionalism and athleticism.

Summer in Barcelona

Inside Look at an International Legal Practice

By Christopher Duenow

I was fortunate to be a law clerk this past summer for Jausas & Terricabras, a law firm in Barcelona, Spain. Being interested in an international legal practice, the experience will be invaluable for my career. However, given the globalization of business and its attendant legal needs, any U.S. attorney would be well advised to be aware of business and legal conditions outside the United States: there are good odds of having a client who needs advice about a foreign legal matter.

The firm where I worked practiced international transactional law. About half the clients were not Spanish, and the majority of its Spanish clients were involved in various kinds of foreign business. As a result, I saw legal transactions from both viewpoints and the interaction between clients and attorneys across different legal systems. I was also able to observe the different environments and roles of the attorney in these business dealings.

My initial reaction upon entering the office was, "Where are all

the secretaries and staff?" There were only a receptionist and a secretary for the senior partner. The attorneys do all their own typing, translating, and "menial" office work. A Spanish law degree requires only slightly more study than a typical undergraduate degree. Even though the attorneys I worked with spoke at least three languages, they don't earn close to typical U.S. attorney salaries. But they are free to chain smoke those nasty European cigarettes and cigars in the office without fear of protest from anyone.

Contrary to popular belief, Spanish attorneys do work hard and long hours. Depending on how much you like languishing over lunch every day, you would either love or hate the long afternoon break. A day at the office starts at about 9:30am and doesn't end until 9:30pm with a break from 1:30 to 4pm. For the visiting attorney, this long lunch is a perfect opportunity to get to know the people on the other side. But be aware that the American habit of discussing business over lunch is frowned upon

and viewed as uncultured and aggressive.

The attorneys in my firm worked as much as business advisors as legal representatives. Foreign firms need someone who is

legal advice. Nevertheless, during most of the meetings I attended, the attorney was called upon to help make a business decision in light of his or her legal advice. The attorney was much more involved in the business decision than American ethical considerations would allow.

European business persons and attorneys had a few recurring problems when working with their American counterparts. Such positive traits in American culture as directness, confidence and outspokenness have a tendency to come

described as arrogance on the part of some American business people and attorneys. Particularly in Spain, Americans arrive thinking they are going to an underdeveloped Latin American country. They intend to show the foreigner the American Way, toward which the world has bent for the last several decades. They thus underestimate their negotiating opponent and get burned in the process.

Most U.S. attorneys also failed to realize the American and Spanish legal systems are fundamentally different, not basically the same with only a different language. I could not convince one Ohio attorney that he could not recover on a negligence claim in Spain that would have been a clear winner in the U.S. He fired our firm and is probably still wasting his time and his client's money pursuing the claim.

After working with a foreign law firm, I realize one of the most important decisions an American attorney can make to help a client with an international operation is to select a local attorney. Depending on the client's operations, you could be working extensively with that attorney, placing your reputation in his or her hands. The better your relationship is with the local attorney, the smoother your client's international transaction will go.



BARCELONA: USD Law student Chris Duenow and an associate at his Spanish law firm tour the Catalan countryside.

bound by law to look after their interests in an unknown environment. I was surprised at how much "deal making" they performed, especially putting clients in contact with investors, developers, contractors, and distributors.

Because larger clients usually already had operations in the country, they wanted more traditional

off as arrogance, aggressiveness and self-serving behavior in the European viewpoint. A concise, straight-to-the-point FAX, perceived as well written here, is often aggressive and offensive to the Spanish attorney. They prefer the passive voice and like to be very polite in legal documents.

A second problem can only be

The author is a third year law student at USD. He spent the summer of 1991 working for Suzucadai Educational Corp. in Tokyo.

Board Hosts Informal Discussion of Journal's Future

By Gregory T. Lyall
Cub Reporter

The editorial board of the *Journal of Contemporary Legal Issues* chaired an informal forum of students and faculty to discuss the future of the *Journal*. About 50 students and five faculty attended the Oct. 22 gathering on the first floor of Warren Hall.

The USD faculty will decide at their Oct. 30 meeting whether the *Journal* should be operated by faculty, retain the current student run format, or be discontinued. Professors Larry Alexander and Paul Wohlmuth have proposed that a Faculty General Editor manage the *Journal*. The *Journal* Board plans to propose a middle alternative.

Board member Rich Gruenberger began the forum by

acknowledging that a quality publication will require faculty support. He defined the issue as being one of degree: degree of quality and degree of faculty involvement.

One problem area discussed was year to year continuity. A possible solution proposed by Board member Keith Johnson was a training program. *Journal* recruiting has been put on hold by the administration pending resolution of the control issue.

The SBA allocated \$8000 to bail the *Journal* out of financial difficulties during the '91-'92 school year. Asked whether the faculty would reimburse that money, Professor Wohlmuth responded that if a proposal was submitted, the faculty may consider reimbursement.

Professor Alexander emphasized that the future management of the *Journal* should be considered in context: "There are currently 150 first line law reviews, maybe

more." Explaining that with many law schools having two, three, or even more legal journals, "those second and third journals have an increasingly difficult time getting quality articles.... [This is a] problem that even affects the *San Diego Law Review*." Professor Alexander further stated that a student run *Journal* will continue to get poor articles.

Students expressed concern about student selection criteria for a faculty journal. Professor Wohlmuth questioned the source of the concern. Professor Alexander indicated that he has given no thought to how students will be picked.

The forum lasted about 45 minutes. During the discussion, Professors Wohlmuth and Alexander spoke independently for faculty management. A *Journal* Board member remarked afterwards that the presentation was intentionally informal.

JCLI Faculty Concept Paper for Operation

1. Managed by a Faculty General Editor (FGE).
2. Format: Publication of papers generated by a live symposium held at USD.
3. Selection of FGE by rotation among interested faculty members. Option 1: Majority vote of three-person committee appointed by Dean. Option 2: Dean selects, subject to confirmation by majority vote of faculty.
4. FGE complete authority during year's term (Sept. 1 - Aug. 31). By Aug. 31, all expenditures of FGE must be paid or invoiced; budgetary support and authority transfers to incoming FGE.
5. Student Roles: Student Managing Editor and Student Editors (chosen by FGE).
6. Budget and Other Support: Symposium expenses; publication expenses; student stipends/tuition remission; administrative/secretarial assistance; release time or other support for FGE; credit/independent study.

JCLI Student Board Counter Proposal

The current *Journal of Contemporary Legal Issues*' Senior Editorial Board, in an effort to promote the best interest of the *Journal* and the USD School of Law will relinquish sole editorial responsibility. Toward that end, the Senior Board recognizes the advantages of having active faculty involvement through a senior faculty member who will have the authority to determine symposium and issue topics. The Senior Editorial Board therefore proposes that:

STUDENT BOARD - A student editorial board continue to exist under the guidance of a senior faculty member.

MEMBERSHIP CRITERIA - The senior faculty member and the student editorial board select future *Journal* student members based on interviews, with class rank not being a consideration.

ISSUE TOPICS - One student article be published per issue, unless a senior faculty member in conjunction with the *Journal* student board decides that the issue shall contain more than one or no

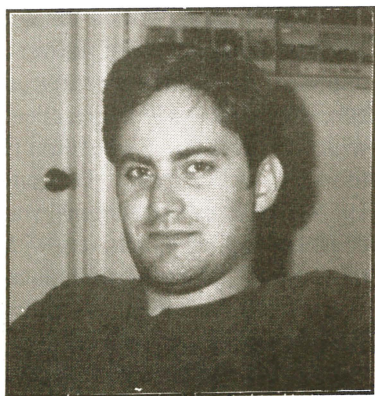
student articles.

SYMPOSIUM - If, for any reason, a symposium is not presented during an academic year, the annual publishing schedule shall be maintained. An issue will be published on a contemporary legal topic to be chosen by the senior faculty member after discussion with the student editorial board.

ARTICLE SELECTION - The current senior editorial board is confident that the new *JCLI* can exist in a format in which students participate in the selection of articles. Thus, we recommend that future student editorial boards evaluate all submitted articles in conjunction with the senior faculty member. After evaluation there will be a presumption in favor of the senior faculty member's determination of article selection. However, if the majority of the student editorial board strongly differs with the senior faculty member's decision on a particular article, a *Journal* board meeting will be held to come to a joint resolution.

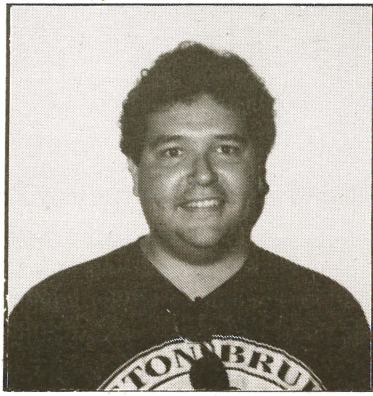
Question of the Week

What is the most important issue for you in this presidential election?



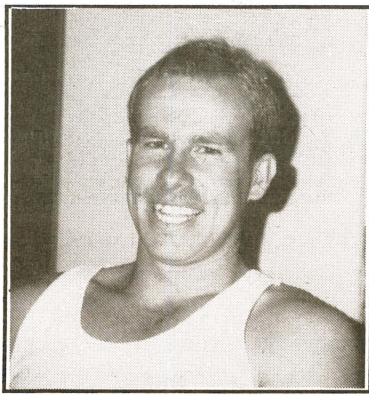
Adam Phillip

Concreteness, where one of the candidates has definite answers that can be presented and reviewed.



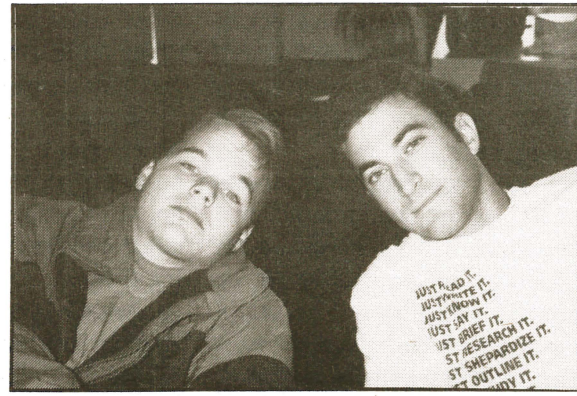
Bill Reyes

Making sure we have a president who respects the rights of minorities and women.



Greg Cribbs

The domestic economic agenda. I would like an economy strong enough to provide jobs and allow us a chance to pay off our \$75K loans once our 3 year law school prison term is up.



Geoff Morrison and Pete Salmon

Exercise regimen. We see Clinton jog; we see Bush jog, too. But we never see Perot exercise - maybe he walks the aisles of Walmart or Home Depot.